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ABSTRACT

Presented is the text of the hearings held in the Senate on S. 6, "Education for All Handicapped Children", a bill to provide financial assistance to the states for improved educational services for handicapped children, as well as related bills. Included are the texts of S. 6, two proposed amendments, and the testimonies of witnesses such as James Galloway, executive director of the National Association of State Directors of Special Education; Charles Mathias, U.S. Senator from Maryland; Albert Pimentel of the American Coalition of Citizens with Disabilities; Janice Peterson, a teacher of the blind; and Frederick Weintraub of the Council for Exceptional Children. Also included are statements from such organizations as American Federation of Teachers, American Foundation for the Blind, Consortium Concerned with the Developmentally Disabled, Maryland State Department of Education, and National School Boards Association. Additional information includes articles and publications such as "Study of Excess Costs of Educating Handicapped Pupils" (A. Stafford Metz); and communications to senators. Appended are New Jersey's present and proposed rules and regulations pertaining to handicapped children. (DB)

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EDUCATION FOR ALL HANDICAPPED CHILDREN, 1975

HEARINGS

BEFORE THE

SUBCOMMITTEE ON THE HANDICAPPED

OF THE

COMMITTEE ON
LABOR AND PUBLIC WELFARE
UNITED STATES SENATE

NINETY-FOURTH CONGRESS

FIRST SESSION

ON

S. 6

TO PROVIDE FINANCIAL ASSISTANCE TO THE STATES FOR IMPROVED EDUCATIONAL SERVICES FOR HANDICAPPED CHILDREN

AND RELATED BILLS

APRIL 8, 9, AND 15, 1975

U.S. DEPARTMENT OF HEALTH,
EDUCATION & WELFARE
NATIONAL INSTITUTE OF
EDUCATION

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EDUCATION FOR ALL HANDICAPPED CHILDREN, 1975

TUESDAY, APRIL 8, 1975

U.S. SENATE,
SUBCOMMITTEE ON THE HANDICAPPED OF THE
SENATE COMMITTEE ON LABOR AND PUBLIC WELFARE,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to call, in room 4200, Dirksen Senate Office Building, Senator Jennings Randolph (chairman of the subcommittee) presiding.

Present: Senators Randolph, Williams, and Schweiker.

Committee staff present: Patria Forsythe, professional staff member; and Jackson M. Andrews, minority counsel.

Senator RANDOLPH. A pleasant morning to our witnesses and our guests.

We begin these hearings on bills that would extend and/or amend part B of the Education of the Handicapped Act, which entitles the States to grants for the education of handicapped children.

Senator Schweiker of Pennsylvania and other members of our Subcommittee on the Handicapped are joined with the chairman in exploring the need for realistic programs that provide equal educational opportunities for the handicapped.

Just over 2 years ago, when this subcommittee opened hearings on our bill to extend the entire Education of the Handicapped Act (S. 896) and on S. 6, I said that "this Nation's most precious resource is its children." Certainly that statement is as true today. Experience has demonstrated that with quality early education experience, good basic educational opportunities, and career education, most handicapped children can be self-sufficient, productive members of society. Even the most severely handicapped child can be made less dependent through education, and the money the Federal Government is investing in education is yielding great human and economic dividends.

Today, we are in a situation in which there are great opportunities, but many problems. Since 1967, the Education of the Handicapped Act has helped to stimulate local and State programs for handicapped children so that there has been an increase of 1.5 million children enrolled in education programs. I know that in West Virginia, 15,161 handicapped children were served in 1972; in 1974 that figure rose to 31,595.

Federal efforts under the act have increased from approximately $25 million to an appropriation this year of approximately $200 million. Nevertheless, only 55 percent of school-aged handicapped children and 22 percent of pre-school-aged handicapped children are receiving special education services. In all, 3.9 million children are wait-

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ing for the fundamental equal educational opportunities on which our Nation is based. This is not right, and it is an emergency situation.

To meet the need, Senator Mathias of Maryland—esteemed colleague and helpful advocate for handicapped children—introduced an amendment which for fiscal year 1975 changed the system of assistance under part B from one of State allotments to one of entitlements, with the distribution of the entitlements based on a formula of $8.75 per child aged 3 through 21 in a State.

The Congress also accepted some excellent provisions in S. 6, the Education for All Handicapped Children Act, which was introduced in the 93d and 94th Congresses by the able chairman of the Labor and Public Welfare Committee, Senator Harrison Williams. Senator Stafford, the valued ranking minority member of this subcommittee, Senator Williams and I offered an amendment which would:

Require that all the States establish a goal of an appropriate public education for all handicapped children and procedures to accomplish this goal;

Provide for specific due process guarantees in the identification, evaluation and placement of children;

Place a priority on serving children receiving no educational services with the new money appropriated for part B;

Prohibit racial or cultural discrimination in the classification and placement of handicapped children; and

Require procedures to insure that, to the maximum extent appropriate, handicapped children are educated with nonhandicapped children.

Finally, we mandated additional State plan requirements to set forth in detail those policies and procedures a State would undertake to insure:

The identification, location, and evaluation of all handicapped children in that State;

The protection of the confidentiality of such data and information; and

The establishment of a goal of providing full educational opportunities to all handicapped children.

As chairman and members of the Subcommittee on the Handicapped and of the Congress, we know the validity of these accomplishments. They are a major step forward in pursuing the goal of equal opportunities for all handicapped Americans.

This new series of hearings has been called to explore ways in which we can continue to improve the educational services contained in Public Law 93–380. We are considering S. 6 as introduced in the 94th Congress by Senator Williams; S. 1256, a 1-year extension of the entitlement formula introduced by Senator Mathias; and S. 1264, which I introduced to extend the entitlement formula for 2 years.

Our goal in these hearings is to join with those people "on the firing line"—those of you in the States who must bring to life the laws which the Congress enacts—so that we may counsel together and then act in positive programs for all handicapped children. In the final analysis, what really matters most is the futures of the children themselves.

Senator Williams?

Senator WILLIAMS. Thank you very much, Mr. Chairman.

I want to get to the firing line, too, and hear the witnesses. The importance of this hearing and the subject matter I think does call for a statement, which you have given, an excellent statement of where we are, where we were, and where we would like to go.

I would like to open with a bit of a statement, too. I am certainly pleased to join you, Senator Randolph, and other members of the subcommittee, in welcoming our witnesses to these hearings on the three bills that are before us, S. 6, S. 1256, and S. 1264.

[A copy of the bills referred to follows:]

94th CONGRESS
1st Session

S. 6

IN THE SENATE OF THE UNITED STATES

JANUARY 15, 1975

Mr. WILLIAMS (for himself, Mr. RANDOLPH, Mr. MAGNUSON, Mr. BENTSEN, Mr. BROOKE, Mr. CANNON, Mr. PHILIP A. HART, Mr. HOLLINGS, Mr. HUMPHREY, Mr. JAVITS, Mr. KENNEDY, Mr. MCGEE, Mr. MONDALE, Mr. MOSS, Mr. PASTORE, Mr. PELL, Mr. SCHWEIKER, Mr. STAFFORD, Mr. STEVENS, Mr. MCGOVERN, Mr. PERCY, Mr. CRANSTON, Mr. CLARK, and Mr. CULVER) introduced the following bill; which was read twice and referred to the Committee on Labor and Public Welfare

---

A BILL

To provide financial assistance to the States for improved educational services for handicapped children.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Education for All Handicapped Children Act".

SEC. 2. (a) (1) Section 601 of the Education of the Handicapped Act and all references thereto are redesignated as section 600.

(2) Part A of such Act is amended by adding after section 600 (as redesignated by this section) the following new section:

VII–O

"STATEMENT OF PURPOSE

"SEC. 601. (a) The Congress finds that—

"(1) there are more than seven million handicapped children in the United States today;

"(2) the special educational needs of such children are being fully met in only a few school systems;

"(3) more than half of the handicapped children in the United States do not receive appropriate educational services which would enable them to have full equality of opportunity;

"(4) one million of the handicapped children in the United States are excluded entirely from the public school system and will not go through the educational process with their peers;

"(5) there are many handicapped children throughout the United States participating in regular school programs whose handicaps prevent them from having a successful educational experience because their handicaps are undetected;

"(6) because of the lack of adequate services within the public school system, families are often forced to find services outside the public school system, often at great distance from their residence and at their own expense;

"(7) developments in the training of teachers and in diagnostic and instructional procedures and methods have advanced to the point that, given appropriate funding, State and local educational agencies can and will provide effective special educational programs and related services to meet the needs of handicapped children;

“(8) State and local educational agencies have a responsibility to provide education for all handicapped children, but present financial resources are inadequate to meet the special educational needs of handicapped children; and

“(9) it is in the national interest that the Federal Government assist State and local efforts to provide programs to meet the educational needs of handicapped children in order to assure equal protection of the laws; therefore,

“(b) It is the purpose of this title to insure that all handicapped children have available to them not later than 1978 special education and related services designed to meet their unique needs, to insure that the rights of handicapped children and their parents or guardians are protected, to relieve the fiscal burden placed upon the States and localities when they provide for the education of all handicapped children, and to assess and assure the effectiveness of efforts to educate handicapped children.”.

(b) Section 602 of the such Act is amended to read as follows:

"DEFINITIONS

"SEC. 602. As used in this title—

"(1) 'handicapped children' means mentally retarded, hard-of-hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, or other health-impaired children, or children with specific learning disabilities who by reason thereof require special education and related services;

"(2) 'Advisory Committee' means the National Advisory Committee on Handicapped Children;

"(3) 'construction', except where otherwise specified, means (A) erection of new or expansion of existing structures, and the acquisition and installation of equipment therefor; or (B) acquisition of existing structures not owned by any agency or institution making application for assistance under this title; or (C) remodeling or alteration (including the acquisition, installation, modernization, or replacement of equipment) of existing structures; or (D) acquisition of land in connection with the activities in clauses (A), (B), and (C); or (E) a combination of any two or more of the foregoing;

"(4) 'children with specific learning disabilities' means those children who have a disorder in one or more of the basic psychological processes involved in understanding or using language, spoken or written, which disorder may manifest itself in imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. Such disorders include such conditions as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. Such term does not include children who have learning problems which are primarily the result of visual, hearing, or motor handicaps, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic handicaps;

"(5) 'Commissioner' means the Commissioner of Education;

"(6) 'elementary school' means a day or residential school which provides elementary education, as determined under State law;

"(7) 'equipment' includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture, printed, published, and audio-visual instructional materials, and books, periodicals, documents, and other related materials;

"(8) 'free appropriate public education' means special education, and related services which shall be provided at public expense, under public supervision and direction and without charge, and meeting the standards of the State educational agency, which shall include an appropriate preschool, elementary, or secondary school education in the applicable State and which is provided in conformance with an individualized written education program required by this Act;

"(9) 'individualized written education program' means a written educational plan for each child developed and agreed upon jointly by the local educational agency, the teacher, the parents or guardians of the child and the child when appropriate, which includes (A) a statement of the child's present levels of educational performance, (B) statements of the instructional objectives to be achieved, (C) a statement of the specific educational services to be provided to such child, and the extent of integration into the regular classroom, (D) the projected date for initiation and anticipated duration of such services, and (E) objective criteria and evaluation procedures and schedule for determining whether instructional objectives are being achieved;

"(10) 'institution of higher education' means an educational institution in any State which—

"(A) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

"(B) is legally authorized within such State to provide a program of education beyond high school;

"(C) provides an educational program for which it awards a bachelor's degree, or provides not less than a two-year program which is acceptable for full credit toward such a degree, or offers a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge;

"(D) is a public or other nonprofit institution; and

"(E) is accredited by a nationally recognized accrediting agency or association listed by the Commissioner pursuant to this paragraph or, if not so accredited, is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited: *Provided, however,* That in the case of an institution offering a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge, if the Commissioner determines that there is no nationally recognized accrediting agency or association qualified to accredit such institutions, he shall appoint an advisory committee, composed of persons specially qualified to evaluate training provided by such institutions, which shall prescribe the standards of content, scope and quality which must be met in order to qualify such institutions to participate under this Act and shall also determine whether particular institutions meet such standards.

For the purposes of this paragraph the Commissioner shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of education or training offered.

"(11) 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools, and such term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school;

"(12) 'nonprofit' as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual;

"(13) 'per pupil expenditure for all other children' means, for any State, the aggregate current expenditure for personnel, materials, equipment, and transportation services provided comparable to personnel, materials, equipment, and transportation services provided pursuant to sections 613(a) (4) and (5), during the fiscal year preceding the fiscal year for which the computation is made, of all local educational agencies in that State, plus any direct current expenditure by the State for operation of the schools of any such agency for all other children not included in the determination made under paragraph (14) of this section, divided by the aggregate number of children other than the children described in paragraph (14) children in daily attendance to whom such agency has provided free appropriate public education, and such expenditure shall not include any financial assistance received under the Elementary and Secondary Education Act of 1965, or any other Federal financial assistance;

"(14) 'per pupil expenditure for handicapped children' means, for any State, the aggregate current expenditure for personnel, materials, equipment, and transportation services provided pursuant to sections 613(a)(4) and (5) during the fiscal year preceding the fiscal year for which the computation is made, of all local educational agencies in that State, plus any direct current expenditure by the State for the operation of the schools of any such agency for handicapped children, divided by the aggregate number of handicapped children in daily attendance to whom such agency has provided free appropriate public education, and such expenditure shall not include any financial assistance received under any other part of the Education of the Handicapped Act, under the Elementary and Secondary Education Act of 1965, or any other Federal financial assistance;

"(15) 'public educational agency' means any State educational agency, any local educational agency, and any other public agency approved by the State educational agency to provide special education and related services to handicapped children within the State;

"(16) 'related services' means transportation and developmental, corrective, and other supportive services (including, but not limited to, speech pathology and audiology, psychology, physical and occupational therapy, physical education and recreation, and medical services and social work) as required to assist a handicapped child to benefit from special education, and includes the early identification and assessment of handicapping conditions in children and provision of services to such children;

"(17) 'research and related purposes' means research, research training (including the payment of stipends and allowances), surveys, or demonstrations in the field of education of handicapped children, or the dissemination of information derived therefrom, including (but without limitation) experimental schools;

"(18) 'secondary school' means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12;

"(19) 'Secretary' means the Secretary of Health, Education, and Welfare;

"(20) 'special education' means specially designed instruction at no cost to parents or guardians to meet the unique needs of a handicapped child as set forth in each child's individualized written education program, including classroom instruction, home instruction, and instruction in hospitals and institutions;

"(21) 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands;

"(22) 'State educational agency' means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or if there is no such officer or agency, an officer or agency designated by the Governor or by State law; and

"(23) the term 'home instruction' means special education and related services in the home or institutional setting which is provided in conformance with an individualized written education program to children who are determined by the State educational agency and reassessed periodically as temporarily unable to attend school because of a medical condition that presupposes the child's absence from school in excess of four weeks, except that the child's handicapping condition that requires special education and related services shall not be the reason for the provision of home instruction instead of free appropriate public education in the regular educational environment, or alternative special programs in a class or school setting.".

SEC. 3. Part B of the Education of the Handicapped Act is amended to read as follows:

"DURATION OF ASSISTANCE

"SEC. 611. During the period beginning July 1, 1975, and ending September 30, 1980, the Commissioner shall, in accordance with provisions of this part, make payments to State educational agencies for grants made on the basis of entitlements created under this part for the purpose of assisting such States in providing full educational opportunity to all handicapped children.

"ENTITLEMENT

SEC. 612. (a) Each State which meets the eligibility requirements of section 613 (a) is entitled under this part to an amount which is equal to the Federal percentage (established pursuant to subsection (d)) of the amount by which the per pupil expenditure for handicapped children twenty-one years of age, or younger, exceeds the per pupil expenditure for all other children, aged five to seventeen years, inclusive, in the public elementary and secondary schools in that State, multiplied by the number of handicapped children twenty-one years of age, or younger, for which the State is, in the academic year preceding the fiscal year for which the determination is made, providing free appropriate public education.

"(b) Funds so allotted shall be used by the State to initiate, expand, and improve special education and related services for handicapped children in accordance with the provisions of this part.

"(c) The per pupil expenditure for handicapped children, from birth to twenty-one years, inclusive, and the per pupil expenditure for all other children, aged five to seventeen years, inclusive, in any State shall be determined by the Commissioner on the basis of the most recent data available to him.

"(d) For the purpose of this section, the 'Federal percentage' shall, for each fiscal year, be 75 percent.

"ELIGIBILITY

"SEC. 613. (a) In order to qualify for assistance under this part in any fiscal year, a State shall demonstrate to the Commissioner that the following conditions are met:

"(1) The State has in effect a policy that assures all handicapped children the right to a free appropriate public education.

"(2) The State has developed a plan pursuant to section 613(b) of this Act in effect prior to the enactment of the Education for All Handicapped Children Act which will be submitted not later than August 21, 1975, and will be amended so as to comply with the provisions of this paragraph. Each such amended plan shall set forth in detail the policies and procedures which the State will undertake or has undertaken in order to assure that—

"(A) there is established (i) a goal of providing full educational opportunity to all handicapped children, (ii) a detailed timetable for accomplishing such a goal, and (iii) a description of the kind and number of facilities, personnel, and services necessary throughout the State to meet such a goal;

"(B) a free appropriate public education will be available for all handicapped children within the State not later than 2 years from the effective date of the Education for All Handicapped Children Act;

"(C) all children residing in the State who are handicapped regardless of the severity of their handicap and who are in need of special education and related services are identified, located, and evaluated, including a practical method of determining which children are currently receiving needed special education and related services and which children are not currently receiving needed special education and related services;

"(D) the policies and procedures are established in accordance with detailed criteria prescribed by the Commissioner to protect the confidentiality of such data and information by the State; and

"(E) the amendment to the plan submitted by the State required by this subsection shall be available to parents and other members of the general public at least thirty days prior to the date of submission of the amendment to the Commissioner.

The amendment made by section 3 relating to paragraph (2) of section 613 (a) of the Education of the Handicapped Act shall take effect on and after August 21, 1975.

"(3) The State has established priorities for providing a free appropriate public education to handicapped children with the most severe handicaps or who are unserved, and has made adequate progress in meeting the timetable of the plan, developed pursuant to paragraph (2) of this subsection.

"(4) Each local educational agency in the State will maintain an individualized written education program for each handicapped child and review at least annually and revise its provisions when appropriate with the agreement of the parents or guardian of the handicapped child.

"(5) The State has established procedures to insure that handicapped children and their parents or guardians are guaranteed procedural safeguards in decisions regarding identification, evaluation, and educational placement of handicapped children including, but not limited to (A) (i) prior notice to parents or guardian of the child when the local or State educational agency proposes to change the educational placement of the child, (ii) an opportunity for the parents or guardian to obtain an impartial due process hearing, examine all relevant records with respect to the classification or educational placement of the child, and obtain an independent educational evaluation of the child, (iii) procedures to protect the rights of the child when the parents or guardian are not known, unavailable, or the child is a ward of the State including the assignment of an individual (not to be an employee of the State or local educational agency involved in the education or care of children) to act as a surrogate for the parents or guardian, and (iv) provision to insure that the decisions rendered in the impartial due process hearing required by this paragraph shall be binding on all parties subject only to appropriate administrative or judicial appeal; and (B) procedures to insure that, to the maximum extent appropriate, handicapped children, including children in public or private institutions or other care facilities, are educated with children who are not handicapped, and that special classes, separate schooling, or other removal of handicapped children from the regular educational environment occurs only when the nature or severity of the handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily; and (C) procedures to insure that testing and evaluation materials and procedures utilized for the purposes of evaluation and placement of handicapped children will be selected and administered so as not to be racially or culturally discriminatory. And such materials or procedures shall be provided and administered in the child's primary home language or communication, and no single procedure shall be the sole criterion for determining an appropriate educational program for a child.

"(6) The State educational agency will be the sole agency for carrying out the requirements of this part and that all educational programs for handicapped children within the State, including all such programs administered by any other State agency will be supervised by the persons responsible for educational programs for handicapped children in the State educational agency and shall meet education standards of the State educational agency.

"(7) The State has a planning and advisory panel, appointed by the Governor, composed of individuals involved in or concerned with the education of handicapped children, including handicapped individuals, teachers, parents, or guardians of handicapped children, State and local education officials, and administrators of programs for handicapped children, which (A) advises the State educational agency of unmet needs within the State in the education of handicapped children, (B) prescribes general policies under which the State educational agency will determine priorities within the State for educational services for handicapped children, (C) reviews the State plan and reports to the State educational agency, the public, and the Commissioner on the progress made in the implementation of the plan and recommends needed amendments to the plan, (D) comments publicly on any rules or regulations proposed for issuance by the State regarding the education of handicapped children and the procedures for distribution of funds under this title, and (E) assists the State in developing, conducting, and reporting the evaluation procedures required under section 617 of this title.

"(b) The Commissioner is authorized to establish specific criteria prescribing the manner in which the requirements of subsection (a) of this section are to be met.

"APPLICATION

"SEC. 614. (a) Any State meeting the eligibility requirements set forth in section 613 (a) and desiring to participate in the program under this part shall submit to the Commissioner an annual application at such time, in such manner, and containing or accompanied by such information as he deems necessary. Each such application shall—

"(1) set forth programs and procedures for the expenditure of funds paid to the State agency in the fiscal year for which such application is made which are consistent with section 613 (a) (2) of this part, and which insure that priority in the expenditure of funds under such application shall be given to the provision of special education and related services to children with the most severe handicaps or who are presently unserved;

"(2) set forth programs and procedures by which funds received by the State or any of its political subdivisions under other Federal programs (including, but not limited to, part A of title I of the Elementary and Secondary Education Act; title III of the Elementary and Secondary Education Act, or its successor authority; Public Law 89-313; and the Vocational Education Act of 1968) which provide assistance for the education of handicapped children, will be utilized by the State, or any of its political subdivisions, only in a manner consistent with the goal of providing a free appropriate public education for all handicapped within two years from the date of enactment of this Act;

"(3) set forth programs and procedures for the development and implementation of a comprehensive system of personnel development which shall include the in-service training of general and special educational instructional and support personnel, detailed procedures to assure that all personnel necessary to carry out the purposes of this part are appropriately and adequately prepared and trained, and that effective procedures for acquiring and disseminating to teachers of, and administrators of programs for, handicapped children significant information derived from educational research, demonstration, and similar projects, and for adopting, where appropriate, promising educational practices developed through such projects;

"(4) (A) set forth programs and procedures to assure that to the extent consistent with the number and location of handicapped children in the State who are enrolled in private elementary and secondary schools, provision is made for the participation of such children in the program assisted or carried out under this part; and

"(B) that handicapped children in private schools and facilities will be provided special education and related services at no cost to their parents, if such children are placed in or referred to such schools or facilities as the means of carrying out the requirements of this title or other applicable law requiring the provision of special education and related services to all handicapped children within such State and that in all such instances the State education agency shall assure that such schools and facilities meet standards that apply to public educational agencies and that children so served have all the rights they would have if served in public educational agencies;

"(5) set forth policies and procedures which assure that distribution of funds under this part reflects the excess cost of serving handicapped children in each local educational agency and the number of children so served by each local educational agency;

"(6) provide satisfactory assurance that the control of funds provided under this part, and title to property derived therefrom, shall be in a public agency for the uses and purposes provided in this part, and that a public agency will administer such funds and property;

"(7) provide for (A) making such reports in such form and containing such information as the Commissioner may require to carry out his functions under this part, including reports of the objective measurements required by paragraph (9) of this section, and (B) keeping such records and affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports and proper disbursement of Federal funds under this Act;

"(8) provide satisfactory assurance that Federal funds made available under this part will be so used as to supplement and increase the level of State and local funds expended for the education of handicapped children and in no case supplant such State and local funds; except that, where the State provides clear and convincing evidence, certified by its advisory panel required by section 613, that all handicapped children have available to them appropriate special education and related services, the Commissioner may waive in part the requirement of this clause if he determines that the certification is correct;

"(9) provide satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this Act to the State, including any such funds paid by the State to local educational agencies; and

"(10) provide for procedures for evaluation at least annually of the effectiveness of programs in meeting the educational needs of handicapped children, in accordance with such criteria that the Commissioner shall prescribe pursuant to section 617.

"(b) The Commissioner shall approve any State annual application and any modification thereof which—

(1) is submitted by a State eligible in accordance with section 613 of this Act, and

(2) meets the requirements of subsection (a) of this section.

The Commissioner shall disapprove any application which does not meet the requirements of the preceding sentence, but shall not finally disapprove a State application except after reasonable notice and opportunity for a hearing to the State.

"WITHHOLDING AND JUDICIAL REVIEW

"SEC. 615. (a) (1) Whenever the Commissioner, after reasonable notice and opportunity for a hearing to any State educational agency, finds that there has been a failure to comply substantially with any provision of section 613 or 614, the Commissioner shall notify the agency that payments will not be made to the State under this part (or, in his discretion, that the State educational agency shall not make further payments under this part to specified local educational agencies whose actions or omissions caused or are involved in such failure) until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, no payments shall be made to the State under this part, or payments by the State educational agency under this part shall be limited to local educational agencies whose actions did not cause or were not involved in the failure, as the case may be.

"(2) Whenever the State planning and advisory panel finds that there has been substantial failure to carry out the requirements of any provision of this Act, it shall notify the chief executive officer of the State and the Commissioner who may provide notice, conduct a hearing and, if he finds a failure described in paragraph (1), withhold payments pursuant to this subsection.

"(b) (1) If any State is dissatisfied with the Commissioner's final action with respect to the approval of its State application submitted under section 614, such State may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

"(2) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(3) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"ADMINISTRATION

"SEC. 616. (a) (1) In carrying out his duties under this part, the Commissioner shall—

"(A) cooperate with, and render all technical assistance necessary, directly or by grant or contract, to the States in matters relating to the education of handicapped children and the execution of the provisions of this part;

"(B) provide such short-term training programs and institutes as are necessary; and

"(C) disseminate information, and otherwise promote the education of all handicapped children within the States.

"(2) As soon as practicable after the enactment of this Act, the Commissioner shall prescribe uniform categories and accounting procedures to be utilized by State agencies in submitting an application for assistance under this part in order to assure equity among the States.

"(b) There are authorized to be included for each fiscal year in the appropriation for the Department of Health, Education, and Welfare such sums as are necessary to administer the provisions of this part.

"EVALUATION

"SEC. 617. (a) The Commissioner shall measure and evaluate the impact of the program authorized under this part and the effectiveness of State efforts to assure the free appropriate public education of all handicapped children.

"(b) In carrying out his responsibilities under this part, the Commissioner shall conduct directly, or by grant or contract such studies, investigations, and evaluations as are necessary to assure effective implementation of this part and (1) shall provide for the collection and annual reporting of programmatic information concerning programs and projects carried out with financial assistance under this part and other Federal programs supporting the education of handicapped children, and such information from State and local educational agencies and other appropriate sources necessary for the implementation of this part, including such information as (A) the numbers of handicapped children participating in programs supported under this part, (B) the types of handicaps and the numbers of persons with such handicaps participating in such programs, (C) the numbers of persons needing such services, (D) the amount of Federal, State, and local expenditures specifically used to provide such special educational programs and (2) provide for the evaluation of such programs through (A) the development of effective methods and procedures for evaluation, (B) the testing and validating of such evaluation methods and procedures, and (C) conducting actual evaluation studies designed to test the effectiveness of activities supported by financial assistance under this Act.

"(c) (1) Not later than one hundred and twenty days after the close of each fiscal year, the Commissioner shall submit to the appropriate committees of the Congress a report on the progress being made toward the provision of free appropriate public education to all handicapped children, including a full report of all evaluation activities conducted under subsection (b).

"(2) Such report shall include a detailed evaluation of the education programs provided in accordance with individualized written education programs, and shall include an evaluation of the degree to which State and local educational agencies meet instructional objectives and have complied with the projected timetable for delivery of services.

"(3) The Commissioner shall also include in the report required under this subsection an analysis, and evaluation of the effectiveness, of the procedures undertaken by the States to assure that handicapped children receive special education and related services in the least restrictive environment commensurate with their needs and to assure compliance with section 613 (a) (6) (B) and improve programs of instruction for handicapped children in day or residential facilities. Such analysis shall include any recommendations for change in provisions of this part, or other Federal law providing support for the education of handicapped children. In order to carry out such an evaluation, the Commissioner is authorized to conduct a statistically valid survey for assessing the effectiveness of the individualized written education program, and such sums as are necessary are hereby authorized to be appropriated to carry out such survey.

"(d) The Commissioner is authorized to hire personnel necessary to conduct data collection and evaluation activities required by subsection (b) without regard to the provisions of title 5, United States Code, relating to appointments in the competitive service and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates except that no more than twenty such personnel shall be employed at any time.

"(f) There are authorized to be appropriated for carrying out the responsibilities of this section $2,500,000 for fiscal year 1976, $3,500,000 for fiscal year 1977, $5,000,000 for fiscal year 1978, and $7,500,000 each for fiscal year 1979 and fiscal year 1980.

"EMPLOYMENT OF HANDICAPPED INDIVIDUALS

"SEC. 618. As a condition of providing financial assistance under this Act, the Secretary shall insure that each recipient of such assistance shall take affirmative action to employ and advance in employment qualified handicapped individuals covered under, and on the same terms and conditions as set forth in, the applicable provisions of the Rehabilitation Act of 1973 (87 Stat. 355) relating to employment of handicapped individuals by State rehabilitation agencies and rehabilitation facilities and under Federal contracts and subcontracts.

"PAYMENTS

"SEC. 619. (a) The Commissioner shall, subject to the provisions of section 613, relating to eligibility, pay to each State the amount which that State is eligible to receive under this part.

"(b) (1) The Commissioner is authorized to pay to each State amounts equal to the amounts expended for the proper and efficient performance of its duties under this part which may include regional, interstate and intrastate technical assistance, and dissemination of necessary materials.

"(2) The total of such payments in any fiscal year shall not exceed—

"(A) one and one-half per centum of the total of the amounts of the grants paid under this Act for that year to the State educational agency; or

"(B) $75,000, or $25,000 in the cases of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands, whichever is greater.

"(3) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection.

"(c) Payments under this Act may be made in advance or by way of reimbursement and in such installments as the Commissioner may determine necessary."

GRANTS FOR THE REMOVAL OF ARCHITECTURAL BARRIERS

SEC. 4. (a) Upon application by any State or local educational agency the Commissioner of Education is authorized to make grants to pay part or all of the cost of altering existing buildings and equipment in the same manner and to the same extent as authorized by an Act approved August 12, 1968 (Public Law 90–480), relating to architectural barriers.

(b) For the purpose of carrying out the provisions of this section, there are authorized to be appropriated such sums as may be necessary.

EFFECTIVE DATE

SEC. 5. The amendments made by sections 2 and 3 of this Act shall take effect on and after July 1, 1975.

94th CONGRESS
1st Session

S. 1256

IN THE SENATE OF THE UNITED STATES

MARCH 20 (legislative day, MARCH 12), 1975

Mr. MATHIAS (for himself, Mr. BEALL, and Mr. STAFFORD) introduced the following bill; which was read twice and referred to the Committee on Labor and Public Welfare

---

A BILL

To extend for one additional year entitlements for part B of the Education of the Handicapped Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 614(a) of the Education Amendments of 1974 is amended by adding after "fiscal year 1975" the following: "and fiscal year 1976".

(b) Section 614(b) of such Act is amended by adding after "fiscal year 1975" the following: "and fiscal year 1976".

(c) Section 614(c) of such Act is amended by adding after "fiscal year 1975" the following: "and fiscal year 1976".

II

(d) (1) Section 611 (c) (2) of the Education of the Handicapped Act as in effect for fiscal years 1975 and 1976 is amended by striking out "the fiscal year ending June 30, 1975" and inserting in lieu thereof "fiscal years 1975, and 1976".

(2) Section 611 (d) of the Education of the Handicapped Act as in effect for fiscal years 1975 and 1976 is amended by striking out "the fiscal year ending June 30, 1975" and by inserting in lieu thereof "fiscal years 1975 and 1976".

(3) Section 612 (a) of the Education of the Handicapped Act as in effect for fiscal years 1975 and 1976 is amended by striking out "the fiscal year ending June 30, 1975" and inserting in lieu thereof "fiscal years 1975 and 1976".

(e) Section 611 (b) of the Education of the Handicapped Act is amended by striking out $1,000,000,000 for the fiscal year ending June 30, 1976 and".

94TH CONGRESS
1ST SESSION

S. 1264

IN THE SENATE OF THE UNITED STATES

MARCH 20 (legislative day, MARCH 12), 1975

Mr. RANDOLPH (for himself, Mr. KENNEDY, Mr. PELL, Mr. SCHWEIKER, and Mr. TAFT) introduced the following bill; which was read twice and referred to the Committee on Labor and Public Welfare

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A BILL

To amend the Education of the Handicapped Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Education of the Handicapped Amendments of 1975".

SEC. 2. (a) (1) Section 614 (a) of the Education Amendments of 1974 is amended by striking out "Effective for fiscal year 1975 only, section" and inserting in lieu thereof "Section".

(2) Section 614 (b) of the Education Amendments of 1974 is amended by striking out "Effective for fiscal year 1975 only, section" and inserting in lieu thereof "Section".

II

(3) Section 614 (c) of the Education Amendments of 1974 is amended by striking out "Effective for fiscal year 1975 only, section" and inserting in lieu thereof "Section".

(b) (1) The amendments made by subsections (a), (b), and (c) of section 614 of the Education Amendments of 1974 shall be effective on and after July 1, 1974, and shall be deemed to have been enacted prior to such date.

(2) Section 614 (e) (2) of the Education Amendments of 1974 shall have no effect.

(c) (1) Section 611 (a) of the Education of the Handicapped Act is amended by inserting after "The Commissioner shall," the following: "during each fiscal year ending prior to October 1, 1977,".

(2) Section 611 (c) (2) of such Act is amended by striking out "the fiscal year ending June 30, 1975" and inserting in lieu thereof "each fiscal year ending prior to October 1, 1977".

(3) Section 612 (a) of such Act is amended by striking out "the fiscal year ending June 30, 1975" and inserting in lieu thereof "each fiscal year".

(4) The amendments made by this subsection shall be effective on and after July 1, 1975, and shall be deemed to have been enacted prior to such date.

Senator **Williams**. As we open these hearings today, I believe it is important that we take note of the progress made by the States either through their legislators or, as a result of court action, in extending the right to education for handicapped children.

The legislation of last year has been fully described and accurately assessed by Chairman Randolph. I join him in everything he said on the importance of what we have done. It is a base of what we—in my judgment—must do now.

According to most recent studies, a maximum of 59 percent of all handicapped children are receiving the education to which they are entitled.

This is a unique situation in the area of education. For as much as we can take some pride in having fostered an increase in services, the unvarnished truth is that we are denying the right to education to more than 40 percent of these young people.

Clearly, the most dramatic example of what remains to be done is the recent order by Judge Waddy here in the District of Columbia in the *Mills* case where he cited the Mayor, the Department of Human Resources, the school board and the school superintendent for contempt for failing to comply with the court's 1971 ruling and for failing to return to the court to show cause why compliance was impossible.

There is another urgent example of why the Federal role must be rapidly intensified and why we must provide much greater assistance.

S. 6, which I have introduced with you, Mr. Chairman, and also with the ranking member, Senator Stafford, and others provides the necessary steps for reaching the goal of full service and full accountability.

Central to these steps are requirements that the States have in effect a right to education policy for all handicapped children; a requirement that within 2 years from date of enactment all children must be receiving services; the maintenance of an individualized education plan for each child which is drawn up in consultation with the child's parents; the clear assignment of responsibility for the education of all handicapped children by the State Education Agency, regardless of who is actually providing the services; the inclusion of all Federal education funds for handicapped children under the comprehensive plan so that expenditures will be made in coordinated fashion; the expansion and improvement of personnel development efforts; and assurance that education for handicapped children will be at no cost to the parent.

S. 6 distributes funds to States on an "excess cost" funding formula. I would like to state that here the details of this formula are not written absolutely and indelibly into stone. However, the concept is one which I believe is important and necessary. I don't believe that funds should be made available to the States in a way which fails to reflect the differences between those States which are making an effort to live up to their responsibilities and those which are not.

I do believe that we can assure States of both the maintenance of a certain level of funding as well as the establishment of a mechanism which assists them in meeting their constitutional responsibility to assure all handicapped children a free, appropriate, public education.

These provisions taken together establish, I believe, a role of strong Federal leadership. They provide not only funding to assist States to carry out their responsibilities, but also guidelines and standards to assure that the constitutional protections of the 14th Amendment are satisfied.

The provisions for eligibility, the requirement of a right to education policy, the 2-year time limit for serving all children and the assignment of clear responsibility to the State Education Agency provide a framework for strict compliance with the law.

Mr. Chairman, I will have to leave at some point during the testimony this morning because of my position on the Rules Committee. We have the New Hampshire ballot question before us.

Senator RANDOLPH. How long will it take to have your report back to the Senate on that subject?

Senator WILLIAMS. I think that chances right now are that we will have S. 6 and funding well before that. But I appreciate all you have done, all you are doing. I am your partner as we move forward.

Thank you.

Senator RANDOLPH. Thank you, Chairman Williams. As members of the Committee on Labor and Public Welfare, we are grateful for our chairman's understanding and leadership and appreciate his coming here today in spite of the conflict of another committee assignment.

Senator Schweiker, you have continued your active identification with educational programs for the handicapped, and you are a cosponsor in the 94th Congress of S. 1264. I am very appreciative of that fact. Would you have opening remarks?

Senator SCHWEIKER. Yes. Thank you, Mr. Chairman.

I strongly commend you for your leadership in this important area and for your initiative as chairman of this subcommittee.

The historic right to education consent agreement between the Pennsylvania Association for Retarded Citizens and the Commonwealth of Pennsylvania, which was signed in 1971, established for the first time in the Nation the right of mentally retarded persons to a free public education.

I commend you, Senator Randolph, for scheduling hearings this week on the legislation to provide financial assistance to States for improved education services for handicapped children.

We will receive the comments and recommendations of various organizations, State governments and the Department of Health, Education, and Welfare which will help us determine how this subcommittee will act to reinforce its commitment to provide every handicapped child the opportunity for quality education and, in particular, how to allocate funds to insure these funds are reaching the maximum number of handicapped children.

S. 6, the Education for All Handicapped Children Act, which Senator Williams is the principal sponsor and I am a cosponsor, calls upon the Federal Government to provide payment to cover the excess costs for education of handicapped children.

However, since this need has not yet been uniformly defined, two measures have been introduced to assure that children already being served will not lose the support, and to encourage States to identify and serve a greater number of children.

S. 1256 would extend for 1 year the current funding mechanism. That is an authorization of $8.75 per child being served.

S. 1264, of which Senator Randolph is the principal sponsor and I am a cosponsor, would extend this provision for 2 years. Neither bill would modify the nature of that program, but would return the authorized ceiling on appropriations to the 1975 level of $665 million.

Since it was originally hoped that S. 6 would be enacted for fiscal year 1976, the authorization ceilings for fiscal years 1976 and 1977 were left at the levels set earlier, which are inadequate.

Therefore, it is imperative that we enact quickly new authorizing legislation. It is our purpose to insure that all handicapped children have available to them a free appropriate public education, to insure that the rights of handicapped children and their parents or guardians are protected, to relieve the fiscal burden placed upon the States and localities when they provide for the education of all handicapped children and to assess the effectiveness of efforts to educate handicapped children.

I remain firmly committed to that goal.

Mr. Chairman, I am privileged to serve not only on this subcommittee, but also on the Appropriations Subcommittee which funds education programs for the handicapped.

Thus, I am in the unique position to participate in the full process of review, development and funding of the programs of education for the handicapped which are so vital in seeing that no handicapped child will be excluded or forced to wait for his share of America's opportunities.

I just chaired, Mr. Chairman, HEW subcommittee hearings on this subject. Much to my disappointment, I found that the administration position was to relinquish some of their commitment financially in this area with the stipulation and feeling that local and State governments could take up the slack.

It is like saying let George do it. Let some other organizations do it. I think that is a very distressing recommendation from the administration. I think it makes our job more difficult, more complex and probably even more significant.

So we have our job cut out for us. I am very confident that the leadership here will be very influential.

Thank you very much.

Senator RANDOLPH. Thank you very much, Senator Schweiker. I know that we do not desire confrontation with the administration in connection with this type of program. We have a responsibility to try to assess the problem and present the facts in the hope that there can be some consensus in this vital effort as we move forward.

I always follow in the Public Works Committee—this is the Public Works Committee hearing room—the practice of introducing a special group.

Is there someone in the group who would just tell us who you are so that the record will show that you were here today? I understand you are from middle Tennessee, but I may be in error about that. Is there someone who would identify your group?

From the FLOOR. We are from the Tennessee Conference Council, middle Tennessee, United Methodist Council in the Nashville area.

Senator RANDOLPH. United Methodist Conference in the Nashville area?

From the FLOOR. That is right.

Senator RANDOLPH. Thank you very much for being with us this morning. We want you to have seats, if they are available.

The Lieutenant Governor, will he please come at this time?

Off the record.

[Discussion off the record.]

Senator RANDOLPH. On the record. We will recess on account of the two rollcalls for approximately 20 minutes.

Thank you all.

[Brief recess.]

Senator RANDOLPH. We are gratified that our first witness is Hon. Tom O'Neill III, the Lieutenant Governor of the Commonwealth of Massachusetts. We recognize that the Lieutenant Governor is the son of the majority leader in the U.S. House of Representatives. We are delighted that you come to discuss with us the programs of education for the handicapped in your State.

Tom, if you will proceed.

STATEMENT OF HON. THOMAS O'NEILL III, LIEUTENANT GOVERNOR, COMMONWEALTH OF MASSACHUSETTS

Lieutenant Governor O'NEILL. Thank you, Mr. Chairman.

I want to relate to you about our own chapter 766 in Massachusetts, our own legislative mandate for education for all the handicapped and how it relates to the corresponding S. 6 legislation that is pending before this subcommittee and tell you about the evolution of our mandate since its inception in September 1 of this school year.

We would hope that it would help this subcommittee in its final deliberations.

As I read through some of the testimony presented to this subcommittee during the last 2 or 3 years, it became clear that you are by no means unfamiliar with the educational reform activities in the Commonwealth. Your hearings in Boston, in May of 1973, elicited a variety of presentations from legislators, special educators and consumers which describe the provisions of the new act and its history and rationale. With respect to the significance of the Massachusetts legislation, I can only add to the strong statements of support made by Senators Kennedy and Brooke at the time, and say that this is a milestone for education and human rights in our State and one to which I am fully committed.

The need for increased State and Federal recognition and support of the needs of all handicapped children has been reiterated before this subcommittee in its hearings all over the country. You have heard continually that the investment of human and financial resources in the education of handicapped children may not only prevent permanent disabling conditions, but will also guarantee that previously hopeless citizens will be able to participate more fully in a productive and gratifying life. Though the humanitarian ends of such a policy are apparent, the long-term fiscal impact of early intervention and training is also clear. It has been estimated that by preventing one child from entering an institution, the lifetime savings in support costs for that individual may be as high as a quarter of a million dollars.[1]

The legislation before this subcommittee, S. 6, is obviously an affirmation of this Nation's long-ignored responsibility to serve those children who have been cruelly excluded from public education. I congratulate Senator Williams and the other members of this subcommittee for their commitment in this area. The visibility of S. 6 and the comprehensive hearings on its provisions have generated interest and concern for the plight of handicapped children. I would venture to say that its existence has served as a catalyst for change in numerous States and that such national interest, coupled with recent litigation and consumer activity, has accelerated successful reform efforts around the country.

In reading Undersecretary Carlucci's testimony of last June, it is apparent that there is a division of opinion on the appropriate role of the Federal Government in the provision of public education. One of Mr. Carlucci's objections to S. 6 is that its passage will make the Federal Government responsible for providing services that the Constitution leaves to the State. On this issue, I would agree with Senator Randolph's view that the States should maintain control over the design and implementation of educational programs, but that the Federal Government has a legitimate role to play in setting objectives and providing increased financial support.

Mr. Carlucci seems to be saying that the Federal role in providing educational services is necessarily limited to the provision of model programs, technical assistance, and modest research and training efforts. Senator Brooke countered this position in his remarks in Boston when he stated that the limited demonstration and technical assistance posture was a form of "tokenism" and reflected the Federal Government's abdication of its responsibility in this area. I agree. In order to meet both State and Federal constitutional imperatives in this field, State and local governments will need increased financial support.

In our experience in Massachusetts, though both the legislature and the administration are totally committed to the full implementation of chapter 766, we can already see the effect that recession and inflation are having on our expectations. Because we simply do not have sufficient funds, we have been forced to a phased implementation of the program which ultimately compromises the integrity of the legislation. Perhaps because Massachusetts has already begun to implement many of the provisions of S. 6, we see more clearly than most States the inevitable need for a State/Federal partnership in this area.

S. 6, with some important modifications, could forge such a partnership. There are several suggestions which we in Massachusetts feel uniquely qualified to contribute to an evaluation of Senator Williams' legislation.

First, we are concerned that the estimate to the Budget Committee for support of S. 6 is only $500 million, even though full application of the S. 6 formula should result in an allocation of at least $1.7 billion.

In Massachusetts, we have already encountered the frustration and disappointment which results from inadequate funding. This same reaction will occur nationwide if S. 6 is passed and not funded fully. The S. 6 mandate that all States provide for all children in the space of 2 years will simply put the States out of compliance with the law and cast the entire law, with all of its laudable intent, in the mold of impotent legislation like prohibition and some blue laws.

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[1] Ronald Conley, "Economics of Mental Retardation," Charles C. Thomas, 1972.

Second, we feel that as currently drafted, S. 6 could require States to categorize and label children in order to qualify for Federal funding in the act. We feel that this is a definite step backward. One of the most significant accomplishments of the chapter 766 legislation is the removal of statutory labels such as "mentally retarded," or "emotionally disturbed." Such categories can stigmatize a child, emphasizing his weakness and setting him apart as different. Inflexible typing diverts attention away from the educational potential of a child and tends to define him as inferior. For that reason, 766 replaces these outdated labels with the category "Children with Special Needs." Labels will only be used for diagnostic purposes and will not follow the child throughout his school career.

Third, we feel that the funding requirements of the proposed act will force States to target resources solely on handicapped children and because of this inflexibility, States will be prevented from fully implementing the important integration aspects of the legislation. Moneys could not, for instance, be used to develop socialization programs for nonhandicapped youngsters who may for the first time be encountering handicapped children in their classrooms. It is also conceivable that equipment purchased under the new act would be restricted to use by handicapped children and therefore could not be used in an integrated classroom. We also feel that insufficient attention is paid in S. 6 to the training requirements of regular classroom teachers who need additional skills to manage a classroom which includes handicapped children. In short, we fear that current funding arrangements may discourage integration rather than encourage it.

Fourth, we are concerned that the data requirements in the bill will both enforce the necessity of labeling mentioned earlier, and will create an administrative nightmare for States like Massachusetts which is already making numerous reporting demands on local education agencies. Chapter 766 requires that each "special needs" child must receive a multidisciplinary evaluation and that an individualized plan be developed which sets out specific educational objectives and goals. This process requires substantial time and recordkeeping, and some local superintendents are saying, on the basis of the paperwork problem alone, that Chapter 766 is unworkable. Though we feel the paperwork problem can be overcome, the addition of separate and distinctly different Federal reporting requirements would literally break the back of our program in the Commonwealth.

In addition to these specific comments regarding S. 6, let me briefly bring you up to date on other implementation issues which we feel are important as we proceed with the Massachusetts mandate. As background, here is a short outline of the affirmative rights granted to parents and "special needs" children under chapter 766:

1. It sets up a system in which parents have a right to refer their children for assessment.

2. It allows parents to participate in the assessment and to help to determine objectives for their children.

3. It gives parents an absolute right to refuse all or part of a given school's plan for their children.

4. It sets up due process procedures for parents to appeal to the State if they are unable to work out a suitable accommodation for their children in a particular school system.

5. It makes the public school system responsible for accepting all children, no matter how severely they are handicapped.

Since the initiation of this program, 90,000 children have been identified and are being served under the new provisions. This represents almost 60 percent of those we estimate should be eligible for reimbursement under the act. We project that the cost of 766 for the school year 1974–75, will be approximately $140 to $150 million. With respect to the new appeals procedure, 167 hearings have already been held in the State.

Implementation problems can be summarized as follows:

Funding is needed for training at all levels of the program.

A management information system is necessary to simplify paperwork and to aid the State in evaluating the program.

Better support must be secured from other human services agencies in the implementation of the mandate.

Additional Federal funds must be secured to remove the increasingly onerous burden placed on local school districts.

In conclusion, I have two additional recommendations for the subcommittee's consideration:

1. In the interim, as the subcommittee continues its deliberations on S. 6, I would strongly support Senator Randolph's amendments of March 20, 1975, which would attach $650 million to the implementation of the 1974 provisions of the Elementary and Secondary Education Act. Since moneys are needed now, and since the new ESEA provisions embody much of the thrust of S. 6, immediate allocation of these funds could provide a valid test of the future enforcement possibilities of Senator Williams' legislation.

2. Since Massachusetts has obviously committed itself to implementing provisions similar to those in S. 6, I would suggest that chapter 766 could serve as a pilot test on an interim basis. I propose that the funding formula developed in S. 6 be applied to our State during the next 2 years and that information gained from the full implementation of our program could be used to support the type of national legislation under consideration.

Finally, let me thank you again for this opportunity. I will be happy to answer any questions that you may have.

Senator RANDOLPH. Governor O'Neill, you properly assess the national problem. As I understand it, you are in opposition to the attitude of the administration in not funding the programs that you believe necessary to bring to handicapped children equal opportunities of education. Am I correct in that?

Lieutenant Governor O'NEILL. You are absolutely correct, Mr. Chairman. I might add to that that because of the lack of funding, we are taking what we consider to be a very good program and only phasing it into the educational process in the Commonwealth of Massachusetts. Had we the funding, we could certainly do a more thorough and direct and immediate job.

Senator RANDOLPH. Do you feel that if we allow the program to lapse that we will fail to keep the momentum of the program going in Massachusetts?

Lieutenant Governor O'NEILL. That is correct. I really believe that allowing the funding mechanism to lapse would certainly compromise the integrity, in a sense, of the scheme of this legislation as we now see it in Massachusetts.

Senator RANDOLPH. Are you asking that the Federal Government pay the entire cost?

Lieutenant Governor O'NEILL. No; we are not. We are willing, obviously, to share the burden. We are awfully top heavy as far as financing is concerned right now. For example, the cost for the program in the State of Massachusetts today approaches $150 million, $80 million of which is borne by the communities themselves, $40 to $45 million borne by the State and the balance is picked up through one entitlement or another right now by the Federal Government.

The burden is just overwhelming in the communities. We have to alleviate that burden if we possibly can. Otherwise, with basic inflationary costs being built into next year's program, we suspect that the program and the intent of the program will falter. We just don't want to see that happen.

Senator RANDOLPH. Governor, your experience with the funding problem is indicative of the fact that you have within your State, persons who are very knowledgeable on this subject matter. We would like to suggest that you respond to our request that there be someone designated by you to work in liaison with our subcommittee staff.

If we could have a continuing contact with you, we could benefit from your expertise and the information you have gained from your experiences in Massachusetts.

Lieutenant Governor O'NEILL. We could create that ongoing line of communication very easily, Senator, and would be happy to submit that information to you and to your subcommittee.

Senator RANDOLPH. We are gratified that you have come. You came because of your intense interest in this subject. We know that. You wanted to testify to draw attention to a very real need, based on the knowledge that you have gained in Massachusetts. So we commend you. We thank you.

Lieutenant Governor O'NEILL. I thank you, very much.

Senator RANDOLPH. Will the panel members please come to the witness stand?

Dr. Wolf, would you identify yourself for the record? We appreciate your willingness to appear today, and we know the information you present will be of value.

STATEMENT OF ENID G. WOLF, ED. D., SUPERVISING DIRECTOR, SPECIAL EDUCATION FEDERAL PROGRAMS OPERATIONS, DIVISION OF SERVICES FOR THE HANDICAPPED, DISTRICT OF COLUMBIA PUBLIC SCHOOLS; AND JAMES R. GALLOWAY, PH. D., EXECUTIVE DIRECTOR, THE NATIONAL ASSOCIATION OF STATE DIRECTORS OF SPECIAL EDUCATION, INC.

Ms. WOLF. I am Dr. Enid Wolf, Supervising Director of the Special Education Federal Programs Operations, Division of Services for the Handicapped, District of Columbia Public Schools.

Senator RANDOLPH. How long have you worked in this field?

Ms. Wolf. In this field, approximately 19 years; 6 years in the District of Columbia.

Senator **Randolph.** Will you give your statement at this time?

Ms. Wolf. My complete testimony is on record. I have been asked to condense it somewhat.

I am very much in favor of the intent of the proposed S. 6 legislation. However, Federal legislation can only be meaningful and effective if it couples the excellence of its intent with capability for implementation. It is of no value if the impossible is mandated or identified needs are not well addressed.

I will be commenting today upon the impact of the recent Public Law 93–380 amendments to Public Law 89–313 and part B of the Education Act and some of the additional difficulties I would expect were S. 6 to be enacted as it is presently written.

I will be discussing four primary issues: the full service goal date as stated in S. 6; the priority of "unserved" as it has been defined for part B of the Education for the Handicapped Act; allocation of funds based directly upon average daily attendance for Public Law 89–313; and the role of the State education agency in assurance of compliance.

A full services goal for 1978 as stated in S. 6 would be totally impossible. Assuming States were forced to comply, it is doubtful that any meaningful programing would occur. The reality of serving every child, even by 1980, should be carefully examined.

In the District of Columbia, for example, our mandatory school age is 7 to 16 and the majority of students in special education fall into that 9-year span. Our requested 1976 budget for the Division of Services for the Handicapped is $11,725,500. Were we to expand services to students aged 3 to 21, this would close to double our enrollment; $11 million would be the very minimum that would be adequate to meet the costs of such programing. Contrast this with the fact that in fiscal year 1975, our part B budget will total $363,419, a long way from covering the cost of what a full services goal would require.

The issue of what is meant by "all children" cannot be left hanging. Very few States have laws requiring services to preschool children. Fewer yet go down to birth. I do not feel that the State education agencies can commit themselves to a full services goal as soon as 1980 for children below the age of 3.

We do not have the legal sanction, funds, facilities to train people or even the definition of what is a "full educational opportunity" for children in this category. Additionally, the mandate was given to the State education agencies when a great deal of what is adequate service for a very young handicapped child is more in the medical and allied health fields. I am not knowledgeable of any similar mandate to other State agencies such as health and social services.

The next problem I wish to speak to is the interpretation the States have been given relating to the definition of unserved as it relates to utilization of part B funds. If the priority for the unserved out of school was first, then children receiving very inadequate services, and this was limited to school-age children, it would be excellent. However, we were told at a meeting on March 25, 1975, that unserved was definitely out of school and ages 0 to 21.

Thus, before the States could solve their severe school age problems, they would have to go lower and higher until every handicapped person 0 to 21 was receiving an adequate service. This is rather hard to justify, particularly in the case of some States where as a result of court mandates, such as the District of Columbia, they have quickly instituted programs of minimum quality which they recognize need improvement. It must also be mentioned that part B is the only legislation with such a mandate.

Other legislation, particularly the formula and set aside grants to the States such as title III, Vocational Education, Public Law 89–313, and Headstart do not have a similar mandate. There is a tremendous lack of consistency. The words "most severe" found in S. 6 prior to the term "or who are unserved" are critical. This part of S. 6 must be included in the part B legislation, if nothing else, as soon as possible. I would suggest adding "profound" since in some areas, the "profound" constitute a distinct, a more expensive and difficult to accept group and have been the children most likely to be excluded.

There are 20 States who receive more funds through Public Law 89–313 than they do from part B. This should be a tremendous source to alleviate gaps in services. This brings us into the next problem area. Prior to Public Law 93–380, the District of Columbia was, as were many other States, allocating funds to State-operated and State-supported programs eligible for Public Law 89–313 grants based upon the priority of needs of the children within the jurisdiction of the agency, not necessarily in proportion to the ADA in each school. It was possible to develop agencywide projects to satisfy educational needs of handicapped children in several or all of a State agency's schools.

With the passage of Public Law 93–380, there was a question as to whether funds needed to be fed back to the agencies strictly on the basis of their average daily attendance. It is my contention that as long as the State agency can show a child is receiving an adequate and appropriate education, the funds should be directed as before to specific areas of greatest need.

This is particularly relevant in special education where it is well known that per pupil costs vary so much, depending upon the types and severity of disability. There is also the factor of some schools needing support more than others or need to expand services to include similar types of children or perhaps a type of child for which the State education agency had never before programed.

Now the stipulation is that for each child that generates an ADA, a certain amount of dollars will be directly attributable to him. This is not at all practical or sensible. We have certain schools that are much better financed and staffed than others. There are schools where we are paying a disproportionate amount for tuition so that every conceivable service is provided. There are schools where the administrative costs on both sides to process the grants may almost equal the grant. Of all our children these are probably among the ones best provided for.

Other than the fact that such distribution of funds does not solve any problems, there are the factors of size, scope, and quality that can no longer be operational.

My final problem area concerns a point which was repeatedly raised at the recent meeting of State personnel who have the direct responsibility of administering Federal grants for the handicapped. In the act itself and certainly in the House and Senate reports, there are implications that not only the major role in administration, but assurance of compliance is with the State education agency.

Such compliance now requires multiagency involvement, planning, and cooperation, and probably increased budgets, new legislation and mandates. The Public Law 93–380 amendment went far in this regard. Now S. 6 would take the SEA's further with the statement that they would be the sole agency for carrying out the requirements of this part and that all educational programs for handicapped children within the State, including all such programs administered by any other State agency, will be supervised by the persons responsible for educational programs.

It should be pointed out that giving responsibility does not give authority and State education agencies are generally not powerful or influential. S. 6 also reduces the cost allowable for administration to $75,000 at a time when more administration funds then ever will be necessary and appropriate. State education agencies must have much greater financial resources and authority, if they are to fulfill their commitments under this legislation.

Senator **Randolph**. Thank you very much, Dr. Wolf.

I am not sure whether you have the exact figures, but you might give us approximations. We would like to have a breakdown in certain categories, percentage-wise, of the number of handicapped children in the District of Columbia in programs of education. What percentage of the total of handicapped children receiving education in the District are in integrated classrooms of handicapped and nonhandicapped?

Ms. **Wolf**. It is the majority of children.

Senator **Randolph**. And a minority are in separate classrooms?

Ms. **Wolf**. That is right.

Senator **Randolph**. What about the separate special education public school? Is there any program of that kind within the District?

Ms. **Wolf**. We have 12 special education schools in the District where the total building is for special services. We also have some self-contained classes in regular schools; but the majority of our programs have what you would call the "mainstream approach." We also pay tuition to 46 agencies, some in the District and some in other States. There also is the State institution for the retarded in Forest Haven in Laurel, Md.

Senator **Randolph**. Are those schools that you mentioned spread throughout the District?

Ms. **Wolf**. Yes.

Senator **Randolph**. Are they in locations that would help in the various areas of the District of Columbia?

Ms. **Wolf**. Yes; although most of our children are bused because the schools serve children with specific problems. Some of the schools, for example, the school for the orthopedically handicapped, have special facilities for certain types of children. So children would have to be bused even though the city isn't that large. Since September the schools have been regionalized. There are six regions. We are trying to spread services wherever possible so that less transportation would be required.

Senator RANDOLPH. I think it would help us as a subcommittee to have these figures. Could we have a breakdown of the number of handicapped children and the percentage being served. If you would, provide that later for our record.

Ms. WOLF. That is very easy to do.

Senator RANDOLPH. It will help us as we consider the problems in the various States and the District of Columbia.

[The figures subsequently furnished follow:]

Students whose education is provided by the District of Columbia Public Schools as of February 1975

I. Integrated services in regular elementary and secondary schools:	
School based services (cumulative number served)	7, 623
Learning centers	314
Total	7, 937
II. Full-time services:	
Special schools	1, 108
Mental health stations	145
Special stations (retarded)	191
Vision stations	15
Hearing impaired stations	18
Preschool	48
Visiting instruction team	363
Tuition grants	562
Total	2, 450

Ms. WOLF. I would like to make one comment relating to the issue that Senator Williams referred to and that is the children who were involved in the recent contempt order by Judge Waddy. Very few of those children would be eligible for funds under part B. We had hoped that type of child would be; but because of the definition we have been given regarding the unserved, they would not be. We find it very difficult to justify having to provide services for 2-year-olds, not that we wouldn't like to, when we have that many school-age children receiving inadequate services.

Senator RANDOLPH. Dr. Wolf, I presume you are saying with this illustration of the action of the Court that there hasn't been given the flexibility which, frankly, we think the law itself permits? At least that is my feeling. What is your feeling about it? Do you think there is a mandate of that kind?

Ms. WOLF. I think that one of the problems is that when the law was written, unserved was not really defined. There were just intentions, just as all children was not defined. I think that the States, the States really need to determine their priorities concerning what is unserved because if you have a severely handicapped child who is just sitting somewhere in a classroom, not receiving any special education services, he is really as unserved as somebody who is not in school at all.

I can tell you as of last year, there were 2,073 children in the self-contained category in special schools and classrooms, whose average daily attendance was counted to compute our grant under Public Law 89–313.

Senator **Randolph**. I don't want to continue to stress my own thinking, but I believe there is a flexibility concerning "priority" in the law which has not been so interpreted.

Dr. Wolf, we may have further questions, as we will of other witnesses. If you would respond to those in writing, we will allow sufficient time for you to answer.

Ms. **Wolf**. I would also like to ask if you could put the statement you just made in writing so that we are not told we are out of compliance if we do go about serving children that we think are inadequately served. I would really appreciate that.

Senator **Randolph**. That is fine.

Would you please furnish me with a statement regarding a flexible definition of "unserved" as it relates to children of school age?

We both have to cooperate if the job is to be done. Thank you very much.

Dr. Galloway, would you identify yourself?

Mr. **Galloway**. Thank you, Senator Randolph.

Mr. Chairman, members of the committee, I am Dick Galloway, executive director of the National Association of State Directors of Special Education, Inc. (NASDSE, Inc.). I represent, and today will attempt to reflect, the collective opinions of the NASDSE membership, personnel from State education agencies of the 50 States and 7 extra-State jurisdictions who have legal responsibility for the administration, supervision, and consultant services to the Nation's special education programs.

We appreciate this opportunity to testify before you and to present our viewpoint on S. 6, S. 1256, and S. 1264, currently under consideration by this committee. Before addressing these bills, I want to express the appreciation and admiration of the NASDSE membership for the dedication and commitment of this committee in its continuing efforts on behalf of handicapped children.

Past legislation enacted by the Federal Government has done much to assist the States in their goals of improving and expanding special education services and programs. I would like to report to you that through programs made possible by title VI(b) funding of Public Law 93–380, in Virginia alone, approximately 3,200 severely handicapped children will be involved in education programs next year who this year are not being served in the public schools. With title VI(b) support, local school districts are identifying and planning programs for many unserved severely handicapped children.

I have prepared a statement for the record. In the interest of time, I will touch briefly on some of the more important points in it.

In preparation for testimony today, my staff surveyed the State departments of special education last week and collected their views and concerns on the specific provisions of S. 6 and their recommendations regarding funding. The results of this survey can be summarized as follows: The States generally support the provisions of S. 6 as being philosophically sound and in line with directions established for their individual programs.

The majority of the States report that the 2-year compliance time line for carrying out certain requirements of S. 6 is too short. They report it will take 3 or 4 years to establish a system to develop and monitor individualized education programs for each handicapped child and to present a plan which demonstrates the achievement of free public education for all handicapped children.

The States reported that significantly increased funding would be necessary to accomplish the following: Free public education for all handicapped children; individualized written plans; to provide tuition in public schools at no cost to the parents when local school districts refer children for such placements; and to administer S. 6.

We suggest that funds for administration of S. 6 be at least comparable to funds allowed under Public Law 93–380. The States reported concern over the current confusion regarding the term "unserved" and requested a flexible definition which includes identified handicapped children in school, but receiving no services; and requested that this be included in the definition section of S. 6.

We would suggest that the advisory board called for in S. 6 be appointed by either the chief State school officer or the State board of education. On funding, the States favor strongly a Mathias-type funding formula as in Public Law 93–380 to an excess cost method of funding.

In view of the need for additional time and increased money, to assure proper implementation of existing and proposed new Federal provisions, the States will support a bill which will extend the Mathias amendment beyond fiscal year 1976 for 2 years and will return the authorized ceiling on appropriations to the 1975 level.

Here, we pledge our support for S. 1264 at this time.

I thank you for the opportunity to testify. I will be pleased to answer any questions now and we will offer to work very closely with your staff to supply any additional information you may request.

Senator RANDOLPH. Thank you, very much, Dr. Galloway. We realize that you have done not only the job which you are supposed to do, but have gone beyond the call of duty in an attempt to give us the views of the States. This has been very, very helpful.

In reference to the funding for a 2-year period, is my understanding correct that the measure that I have introduced with the cosponsorship of Senators Kennedy, Pell, Schweiker, Taft and also Humphrey, would give us the opportunity to carry forward the program without losing the impetus or the momentum which we have had. Is that correct?

Mr. GALLOWAY. Yes, sir. That is the concensus of the reports that we have received back.

Senator RANDOLPH. How many States did you cover in your inquiry?

Mr. GALLOWAY. We sent it out last week. They are still coming in. My report covers 27 States and 61 percent of the population being served. They will probably still be coming in today or tomorrow.

Senator RANDOLPH. You will provide those for us for the record?

Mr. GALLOWAY. Yes, sir.

Senator RANDOLPH. We can use that.

The record will reflect the entire statement of Dr. Wolf and also the statement, in full, of Dr. Galloway.

If you feel there is additional substantive material, we would want you to have the opportunity to add that. We will try to submit any written questions to you as soon as possible.

[The prepared statements of Dr. Wolf and Dr. Galloway, together with other information supplied for the record, follow:]

April 8, 1975

TESTIMONY BEFORE SUBCOMMITTEE ON THE HANDICAPPED ON S.6, S.1256, and S.1264

Enid Gordon Wolf, Ed. D.
Supervising Director
Special Education Federal Programs Operations
Division of Services for the Handicapped
District of Columbia Public Schools

Members of the Committee:

Federal legislation can only be meaningful and effective if it couples the excellence of its intent with capability for implementation.

I will be commenting today upon the impact of the recent P.L. 93-380 amendments to Part B of the Education of the Handicapped Act, and the P.L. 89-313 amendments to Title I and some of the additional difficulties I would expect were S.6 to be enacted as it is presently written:

I have selected four (4) primary issues for my discussion:

I. The full service goal date as stated in S.6,

II. The priority of "unserved" as it has been defined for Part B-EHA

III. Allocation of funds based directly upon Average Daily Attendance for P.L. 89-313 (as amended by 93-380 "Sec. 121(C)"), and,

IV. The role of the State Education Agency (SEA) in assurance of compliance.

The P.L. 93-380 amendments to Part B of the Education of the Handicapped Act as they concern a full services goal, evaluation-placement safeguards, due process guarantees, least restrictive alternatives, non-discriminatory testing and evaluation I feel were necessary and are commendable. Also commendable are the additional requirements for FY 1976 for child identification and confidentiality. The date for the full services goal is not given but from previous statements and publications (ex.: Report to the Congress: Federal Programs for Education of the Handicapped: Issues and Problems, by the Comptroller General of the United States, p. 9) we know that one of the major objectives of the Bureau of Education for the Handicapped is to ensure that every handicapped child is receiving an appropriately designed education by 1980. It should be noted that none of this legislation deals with age parameters for service which is an important area to consider throughout the hearings.

I do not believe there is anyone who would not like to see every handicapped child served by tomorrow or the next day. However, in view of where we are, even considering the acceleration over the past three years in allocation of funds and provision of services, a full services goal for 1978 as stated in S.6 would be totally impossible. Assuming States were forced to comply it is doubtful that any meaningful programming would occur.

The reality of serving every child, even by 1980 should be carefully examined. In the District of Columbia, for example, our mandatory school age is 7-16 and the majority of students in special education fall into that nine year span. The FY 1975 operational budget for our Division of Services for the Handicapped is $11,391,800. The requested FY 1976 budget is $11,725,500. These amounts do not reflect major items such as capital outlay and transportation which appear elsewhere in the school system's budget. Were we to expand to ages 3-21, this would close to double our enrollment. $11,725,500. would be the very minimum that would be adequate to meet the costs of such new programming. Contrast this with the fact that in FY 1975 our Part B, EHA budget will total $363,419. A long way from covering the cost of what a full services reality would require. The S.6 excess cost formula is just that. Even were we able to give an accurate estimate of what were constituted to be our excess costs (and this would be difficult since we have never fully served the 0-5 population) there is still the question of the basic costs. Other federal funds cannot make up the difference, in fact the 93-380 amendments take P.L. 89-313 in exactly the other direction, as I will describe later.

The issue of what is meant by "all children" cannot be left hanging. Very few States have laws requiring service to pre-school children. Fewer yet go down to birth. I do not feel that the State Education Agencies can commit themselves to a full services goal as soon as 1980 for children below the age of three. We do not have the legal sanction, funds, facilities, trained people, or even a definition of what is a "full educational opportunity" for children in this category. Additionally, the mandate is given to the education agency when a great deal of what is adequate service for a very young handicapped child and his parents is more in the medical and allied health fields. I am not knowledgeable of any similar mandate to other State Agencies, such as Health and Social Services.

These are not excuses, these are facts. States are committed to planning but excessive demands in a single piece of legislation may cause rejection of that legislation and the other fine points mentioned previously may take longer to evolve. I would suggest an age range be given for the full services goal which would fit into the mandatory school age of most States or expand it slightly, such as 6-17, or 5-18, and allow at least one full year for full services for each additional year. For example, 1980: 5-17; 1981: 4-18; 1982: 4-19, etc. Such a system would also alleviate the next problem I wish to speak to.

That is, the interpretation the States were given relating to the definition of "unserved" at a Conference on implementation of 93-380 amendments held at the National Education Association Building on March 25, 1975.

When the issue of priority to the unserved was first raised it was no doubt based on information that one million children were excluded entirely from the public school system (Comptroller's report) which implied that such children were of school age.

It is known that (1) because of the way questions are worded, and (2) because of the way different States collect their information, that data concerning the handicapped is not as accurate as it should be. There may be one million school age children unserved and out of school, but I doubt it. It is far more likely that such children are in school but unserved by or not reported to Special Education Departments.

When the legislation was written it was recognized that there are handicapped children who are without the benefit of any services and children receiving some but not all necessary services (Senate Report on the Education Amendments of 1974, Calendar No. 735).

If the priority for the unserved was first, then children not receiving an adequate service,and this was limited to children of school age, it would be excellent. However, we were told at our meeting that unserved was definietly out of school and ages 0-21. Thus, before the States could solve their school age problems they would have to go lower and higher until every handicapped person 0-21 was receiving an adequate service. This is rather hard to justify even to someone like myself who has always been a strong advocate for preschool education. For example, the Washington Post reported on March 27, 1975 that funds needed to be found to pay for tuition placements for 43 District of Columbia students. A careful reading of that article would show that the majority of these children in obvious need of a special education would not be eligible for Part B funding, despite the fact that our plan for use of the Part B funds will result in a much better facility than those for which the children were awaiting tuition! Why, these are not children out of school, except by parent choice in a few cases. Unless some change is made in this interpretation, our projected program to serve 50 severely handicapped children under the Part B mandate will probably open in September with perhaps two or three school age children, and rather more 3-5's, unless we include those with mild problems, and then the rest two-year-olds and younger. This would not hurt were we not so concerned about (1) school age children with severe problems that we would like to do so much more for, and (2) the fact that at some point we must break away from the pattern of needing to use tuition grants because we do not have the start up money for the severely handicapped child. As part of the recent Stipulation Report in the Mills et. al v. Board of Education et. al. we reported that as of February 28, 1975, 562 children were on tuition grants. Before the interpretation alluded to above we had hoped that some of the Part B money could be used to take children from some of the agencies where costs are high and services are not of the best quality, which would save us a great deal of money in the long run. This will not happen. It must also be mentioned again that Part B is the only legislation with such a mandate. Other legislation, particularly formula and set aside grants to the States such as Title III, Vocational Education Amendments, Part B, and P.L. 89-313 should also come under a similar mandate. There is a tremendous lack of consistency. Also, in this regard, the Department of Health, Education and Welfare needs to look at its Head Start mandate and how many of the children identified as part of its enrollment of 10 percent handicapped children were actually identified from within its already existing population, if in fact 10 percent were so identified. This was a perfect example of a mandate which caught everyone so by surprise that they could not cope with it. If the Head Start mandate were also to be "unserved, out of pre-school" children this would go a long way toward solving the "unserved" problem.

I would recommend that unserved be considered (1) those school age children, as school age is defined for any one year, who are totally out of school and not enrolled in any special program, and, (2) those enrolled school age children who are receiving only part-time and/or grossly inadequate service with priority being profound, severe and multi-handicapped children.

The words, ..."for the severe"... found in S.6 prior to the term, ... "and unserved" are critical. This part of S.6 must be included in the Part B legislation, if nothing else, as soon as possible. I would suggest adding "profound" since in some areas the "profound" constitute a distinct, a more expensive and difficult to accept group and have been the children most likely to be excluded.

There are 20 States who receive more fund [illegible] P.L. 89-313 than they do from Part B. This should be a tremendous source to alleviate gaps in services. This brings us into the next problem area:

Prior to P.L. 93-380 the District of Columbia was, as were many other States, allocating funds to State Operated and State Supported programs eligible for P.L. 89-313 grants based upon the following statement which appeared on page II-C-I of the Administrative Manual for Public Law 89-313 and Part B, Education of the Handicapped Act, dated January 1971:

> P.L. 89-313 Grants within the State Agency
>
> The U.S. Commissioner of Education establishes allocations to particular State agencies as authorized by P.L. 89-313. The amount of funds committed to projects in any specific school under the administration of an individual State agency should not necessarily be in proportion to the ADA in that school. Consideration should be given to the priority of needs of the children within the jurisdiction of the agency. While, under normal circumstances, the needs would be approximately in proportion to the number of children served at each school, the agency may determine that the needs of a particular school are of such high priority that a higher percentage of funds should be spent on projects at that school. Furthermore, special emphasis might need to be placed on the development of agency-wide projects to satisfy educational needs of handicapped children included

> in several or all of a State Agency's schools.
>
> Distribution of a State Agency's P.L. 89-313 funds should evidence relationship to and be made in accordance with the State's special education planning, as detailed in the State's annual Description of Projected Activities (OE Form 9016).
>
> In order to realize greater benefits from P.L. 89-313 funds, some State agencies use a percentage of their total allocation as a special fund, preparing and submitting, or inviting the preparation and submission of particularly meritorious projects to be carried out at participating schools, which projects can then be funded from the special monies.

With passage of 93-380 there was a question as to whether funds needed to be fed back to agencies strictly on the basis of their "Average Daily Attendance." It is my contention that as long as the SEA could show a child was receiving an adequate and appropriate education the funds could be directed, as before, to specific areas of greatest need. This is particularly relevant in special education where it is well known that per pupil costs vary so much depending upon the type and severity of disability. There is also the factor of some schools needing support more than others, or need to expand services to include similar type children or perhaps a type of child for whom an SEA had never before programmed.

In the District of Columbia the funds have had tremendous impact, particularly in the areas of the profoundly retarded, emotionally disturbed and pre-school. In instances where the State was only providing basic instructional support the federal funds added a multitude of services to create excellent programs. An example I will use is that of Sharpe Health School (for the Orthopedically Handicapped and Other Health Impaired). In 1974 there were approximately 238 students. The funds for Sharpe provided a summer program for over a hundred students who had missed a great deal of school because of severe and prolonged medical conditions and a program for 20 profoundly retarded students at a cost of $81,309. This was priority and need.

Now the stipulation is that for each child that generates an ADA a certain amount of dollars will be directly attributable to him. Such a formula would give our program for the profoundly retarded approximately $8,000. About the cost of one aide. This is not at all practicable or sensible. We have certain schools that are comparatively much better financed and staffed than others; there are schools where we are paying a disportionate amount for tuition so that every conceivable service is provided. There are schools where the administrative costs on both sides to process the grant may almost equal the grant. There are 23 agencies to which the District of Columbia is paying tuition that have less than five District of Columbia Children. There are a total of 46 agencies to which we contract for services that will be eligible for funds in addition to the State Operated facilities. Each of these have children in ADA and must be offered their proportion of funds. Remember, of all our children these are probably among the ones best provided for. If another agency, for example, a State institution for the retarded, has an unserved child, this child cannot now be included in 89-313 programs since they were not counted in an ADA.

Part B cannot take up this slack, nor should it have to. There is also a distinction that was always made whereby Part B was for the LEA's and P.L. 89-313 for State Supported and State Operated schools. Some clarity is due on this.

Other than the fact that such distribution of funds do not solve any problems there are the factors of size, scope and quality that can no longer be operational. I fear that the past influence that we were able to apply in assurance of quality will be greatly lessened in instances where persons are entitled to funds despite whether or not they have a high priority project or an excellent proposal. If agencies are denied funds because they did not comply with guidelines will the States be out of compliance if they withhold funds?

I recommend that Section C of Section 121 of Title I revert to the original intent of 91-230 as outlined in the Guidelines quoted. A statement should be added that every eligible agency be notified of availability of funds, have the right to submit projects and repeal if their project is rejected.

My final problem area concerns a point which was repeatedly raised at the recent meeting of State personnel who have the direct responsibility of administering federal grants for the handicapped. It is stated in the Act (P.L. 91-230, Sec. 613(a) (6)... provide that the State Educational agency will be the sole agency for administering or supervising the administration of the State Plan.

In the Act itself, and certainly in the House and Senate reports, there are implications that not only the major role in administration but assurance of compliance is with the SEA. Such compliance now requires multi-agency involvement, planning and cooperation, and probably increased budgets, new legislation and mandates (ex.: due process guarantees, service from 0-21, full services, etc.) The 93-380 amendment went far in this regard. Now S.6 would take the SEA's further with the statement that

> "(6) The State educational agency will be the sole agency for carrying out the requirements of this part and that all educational programs for handicapped children within the State, including all such programs administered by any other State agency will be supervised

> by the persons responsible for educational programs for handicapped children in the State educational agency and shall meet education standards of the State educational agency.

It should be pointed out that giving responsibility does not give authority and SEA's are generally not powerful or influencial. S.6 also reduces the cost allowable for administration to $75,000. at a time when more administrative functions than ever will be necessary and appropriate. Without financial resources or inherent authority what can help the SEA with its need for a total State commitment to what is being called for under Part B of the Education of the Handicapped Act. Isolated bits of legislation, out of context and with limited financial strength are not the answer. What is probably needed is an addition to the Constitution of the United States in the way of a Twenty-Seventh Amendment which should read:

PROPOSED CONSTITUTIONAL AMENDMENT

SECTION I.

The right of citizens of the United States to a free, appropriate public education shall not be denied by any State on account of any handicapping condition, regardless of type or degree of severity. Such appropriate education shall be available from birth until a high school education or its equivalent is reached. Such equivalent education shall be available at least through the age of eighteen (18).

SECTION II.

The Congress shall have the power to enforce this Article by appropriate legislation.

Statement of James R. Galloway, Ph.D., Executive Director, The National Association of State Directors of Special Education, Inc.

Mr. Chairman, members of the committee, I am Dick Galloway, Executive Director of the National Association of State Directors of Special Education, Incorporated, (NASDSE, Inc.). I represent, and today will attempt to reflect, the collective opinions of the NASDSE membership, personnel from state education agencies of the 50 states and 7 extra-state jurisdictions who have legal responsibility for the administration, supervision and consultant services to the nation's special education programs.

We appreciate this opportunity to testify before you and to present our viewpoint on S.6, S.1256 and S.1264, currently under consideration by this committee. Before addressing these bills I want to express the appreciation and admiration of the NASDSE membership for the dedication and commitment of this Committee in its continuing efforts on behalf of handicapped children. Past legislation enacted by the Federal Government has done much to assist the states in their goals of improving and expanding special education services and programs. We share with you the goal of achieving an appropriate educational program for every handicapped child at the earliest possible date.

In preparation for testimony today my staff surveyed the state departments of special education last week and collected their views and concerns on the above mentioned bills. We asked for their reactions to the specific provisions of S.6 and to their recommendations regarding continued funding of P.L. 93-380. In presenting the S.6 provisions we asked that they indicate their preference for support now, at a later date or never. Regarding funding, we collected opinions on excess costs funding versus a continuation of the current 93-380 funding pattern. I would like to present, at this time, the consensus of opinion on these points and reflect some of the comments from individual states regarding specific provisions.

State departments of special education strongly support most of the provisions of S.6 but have two primary concerns regarding the feasibility and practicality of implementation. First is the concern that the provisions must be accompanied by adequate appropriations, and second, the two year compliance timeline to accomplish certain requirements is viewed as too short.

NASDSE membership fully supports a free appropriate public education for each handicapped child. We support the concept of a comprehensive system of personnel development including inservice training of general and special education personnel, and we support the establishment of the unserved and the severely handicapped as receiving highest priority for services.

There is currently much confusion regarding the meaning of "unserved". From our experience legislators, lawyers, administrators and parents often have contradictory interpretations of this word. For example, "unserved" to many may mean a handicapped child who is not receiving any educational service at all; to others it may mean a handicapped child in a regular classroom who is in need of special education services but is not receiving them; while to others it may mean a child in an institution who may be receiving training but is not receiving an educational program approved by the state education agency. We suggest that the definitions section of S.6 include definitions of "unserved" and recommend that a flexible interpretation of the term be made to include all of the above cited examples.

Such flexibility will result in much more active and innovative programming at the local education agency level. This will result in many more children being identified and served. On this latter point I can report to you that through programs made possible by Title VI-B funding in Virginia alone approximately 3200 severely handicapped children will be involved in education programs next year who this year are not being served by the public schools. The programs designed by local divisions reflect the need for flexibility in interpretations of the term unserved. In one district severely emotionally disturbed youngsters, currently out of school and on the waiting lists of private schools and institutions will be offered an educational program through a "schools-without-walls" approach. Eight rural appalachians districts have proposed to establish programs for 67 severely handicapped children residing in the 8 rural districts who are currently without any education service. Clearly the programs and the needs of these two areas vary widely and flexibility should be maintained to allow state departments to respond to these varied needs.

NASDSE supports the requirements of an individualized written education program for each handicapped child. Some states have begun to implement this practice and nearly all support the concept. However most states feel it would be extremely difficult to meet full compliance of this provision by 1978. According to our survey, many of the states, including Maine, New York, Kentucky, West Virginia, and Ohio have indicated it will take at least three years, probably four, to fully implement and be able to monitor this requirement.

NASDSE supports the requirement which assures that handicapped children will be provided special education services in private schools, at no cost to their parents, if these children have been referred to private schools by local school districts as a means of carrying out the intent of the act. Although supportive of this concept the states voiced varied concerns regarding their abilities to fulfill this provision. The most prevalent concern expressed was the necessity for Congress to provide an adequate funding mechanism and appropriations level if these provisions become law. The fear is that given this requirement without adequate appropriations some state education agencies would be unable to comply.

The establishment of an advisory panel for prescribing state priorities is a provision which our membership supports but about which they express concerns. It should be emphasized that advisory boards are general practice in all levels of special education so we are quite comfortable with the concept. However, we would recommend that any state advisory body be appointed by either the Chief State School Officer of the State Board of Education and its role be advisory as policy making must remain with the State Board of Education.

The states reflected considerable concern on two of the provisions in S.6. First the requirement of demonstrating the achievement of a free public education for all handicapped children within two years. Our survey indicated that the majority of states believe that increased funding and at least three years or more are needed to properly achieve this objective. Second, almost all of the state departments have serious concerns about the proposed level of funding for administrative purposes in the new law. The provision in S.6 which allows 1.5% or $75,000 whichever is greater, is received as threatening to the states' ability to adequately staff in order to supervise and monitor the provisions of the act. The administration of S.6 will place new requirements on state departments, particularly in monitoring the existence and appropriateness of individual education plans. We request that funding for administrative costs continue through a specific set aside amount for state administration, as in the current law (93-380), through an increased percentage, or through a hold harmless provision based on monies now available to state departments for administration of Title VI-B programs.

On the question of funding, our survey indicates that the state departments strongly favor a Mathias-type funding formula, as in

93-380, to an excess cost method of funding. At this time categorical cost data are difficult to accumulate in most states, and when attempts are made, the data are not comparable between states, among districts and even within some districts. These findings have been reported in recent studies by the National Center for Educational Statistics, and the Office of the Assistant Secretary for Planning and Development. It is our belief that costs for delivering appropriate educational programs will vary as much within categories of handicapping conditions as between categories, particularly in children served through mainstreaming. Until such time that cost variables can be isolated and quantified for the total education program we feel that the complex, multi-disciplinary and varied programs of special education should not be expected to establish the procedures through which an excess cost funded program could be administered responsibly.

In view of the concerns of the states regarding the time required to implement existing and proposed new provisions, NASDSE recommends and will support strongly a bill which will extend the Mathias amendment beyond fiscal year 76 for two years, and will return the authorized ceiling on appropriations to the 1975 level.

In closing I would like to thank the committee again for the opportunity of testifying and expressing the concerns of the administrators of special education programs regarding this all important proposed legislation. I would be pleased to answer any questions you may have or will pledge to work closely with your staff on supplying any additional information you may request. Thank you.

NASDSE

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SURVEY OF STATES REGARDING PROVISIONS OF PROPOSED FEDERAL LEGISLATION: S6, S1256, S1264

Washington, D.C.

April 18,1975

Submitted by the National Association of State Directors of
Special Education upon the request of Senator Jennings Randolph

STATES PARTICIPATING IN NASDSE STUDY

ARIZONA
ARKANSAS
CALIFORNIA
COLORADO
DELAWARE
FLORIDA
GEORGIA
ILLINOIS
INDIANA
IOWA
KANSAS
KENTUCKY
MAINE
MARYLAND
MICHIGAN
MISSISSIPPI
MISSOURI
NEVADA
NEW JERSEY
NEW MEXICO
NEW YORK
NORTH CAROLINA
OHIO
OKLAHOMA
OREGON
PENNSYLVANIA
PUERTO RICO
SOUTH CAROLINA
TENNESSEE
TEXAS
UTAH
VERMONT
VIRGINIA
WEST VIRGINIA
WISCONSIN
WYOMING
DISTRICT of COLUMBIA

The National Association of State Directors of Special Education

RESULTS OF SURVEY OF STATES ON PROVISIONS OF S.6

Number of states = 37	Support Effective FY 76		Non Support FY 76		Support for Future Date	
Provisions (S.6)	N	Percent	N	Percent	N	Percent
1. Mandates a policy which assures a free public education for each handicapped child.	32	86%	1	3%	4	11%
2. Achieve a free public education within 2 years for each handicapped child.	15	40%	7	19%	15	41%
3. Priority of free public education to handicapped children who are unserved and to severely handicapped.	35	95%	0	0	2	5%
4. Requires LEAs to maintain a written individualized program for each handicapped child; to be developed by LEA, teacher, parents and child, when appropriate.	21	57%	7	19%	9	24%
5. Requires SEAs to be sole agency responsible for carrying out the act. All education programs, including those administered by other state agencies, will be supervised by SEA special education personnel.	24	65%	8	22%	6	16%
6. Requires states to establish planning and advisory panel to prescribe general policies for determining priorities within the state.	27	73%	7	19%	3	8%
7. Requires development and implementation of a comprehensive system of personnel development including inservice training of general and special education personnel.	23	62%	7	19%	6	16%
8. Requires states to assure that handicapped children in private schools will be provided special education at no cost to their parents if such children have been referred as a means of carrying out the provisions of S.6.	20	54%	10	27%	7	19%
9. Maximum allowable for state administration is 1.5% of total state grant, or $75,000 whichever is greater.	9	22%	25	67%	4	11%

Funding Formulas and Alternatives

I.	Most ideal (preferred) funding formula for Title VI-B funds	N	Percent
a.	Distribution of funds based on total population, 3-21 x $$, such as the existing Mathias type funding formula.	29	78%
b.	Old VI-B type formula (3-21 population divided by total appropriation).	3	8%
c.	Excess cost type formula (such as proposed in S.6).	5	14%
	Total	37	

II.	Most preferred option for funding formula for FY '76		
a.	Fund 93-380 as written (which reverts to old grant formula for FY '76)	2	5%
b.	Extend Mathias formula one year to FY '76 (S. 1256)	2	5%
c.	Extend Mathias Amendment but remove the funding ceiling for FY '76 ($110 million) and increase appropriations to $666 million (S. 1264)	23	62%
d.	Replace 93-380 with S.6 provisions, with the Mathias funding formula.	6	16%
e.	Replace 93-380 with S.6 as written	4	11%
	Total	37	

SPECIFIC COMMENTS FROM STATES REGARDING FEDERAL LEGISLATION

(1) Mandates a policy which assures the right to a free appropriate public education for each handicapped child.

Comments:

1. Establish procedures for '76 for location and identification; future date for implementation. (S.C.)
2. I support the concept but cannot comply operationally due to these constraints: fiscal, personnel (teaching and supportive) and facilities. (Ky)
3. Maine has such a mandate by 1/1/75
4. Need at least three years to implement this (N.Y.)
5. Should relate only to school age because Utah doesn't mandate preschool. (Utah)
6. Oregon has statute mandating such a policy. (Oregon)
7. FY '76 is not a realistic date to achieve this policy. Texas has established a date of 1980. There aren't adequate numbers of teachers and supportive personnel to achieve a FY '76 deadline. (Tx)
8. California master plan for special education, effective 7/1/75 carries this mandate. S.6 would help support the tremendous job of providing full services to all the state's handicapped children and hasten the process. (Ca)
9. Provided some additional funds are available. (Fla.)
10. Can support this providing states present law and priorities can be met first, this means 6-18. (Ind.)
11. Time table implementation (Ok)

(2) Requires a plan demonstrating how a free appropriate public education will be available for all handicapped children within the state within two years from date of enactment.

Comments:

1. Two years is too short a time.
2. Support the concept but cannot comply operationally due to fiscal, facility, and personnel constraints. (Ky)
3. Need three years to implement. (N.Y.)
4. Virginia has such a goal within two years, but whatever happened to the OE goal of 1980? (Va)
5. Will meet through local mandate by 1978. (Co)
6. FY '76 is not a realistic date to achieve this policy. Texas has established a date of 1980. There aren't adequate numbers of teachers and supportive personnel to achieve a FY '76 deadline.
7. Cannot accomplish unless funding is sufficient. (Utah)
8. Define "all" to be ages 0-21 so early intervention can be facilitated if not contrary to state laws. (Ca)
9. As long as they accept the state definition of a handicapped child and mandated only from five years. (Fla.)

(3) Requires establishment of priorities for providing a free appropriate public education to handicapped children who are unserved and to those with the most severe handicaps.

Comments:

1. The severe handicap section is or may be in conflict with "unserved". (Ga)

2. State determined priorities. (Ohio)

3. Identification, screening, and evaluation will take more than two years. Particularly when "other agencies" of state(s) involved. (Wisc.; S.C.)

4. Part of Oregon FY '75 state plan for Title VI-B.

5. Clarify or define "unserved" in legislation. (Iowa)

6. Colorado priorities:

   1st--not in school
   2nd--in school without appropriate services
   3rd--preschool

7. Would support the establishment of priorities in these areas but not 100% of the funds should be spent on priorities. Some funds should be used to develop quality into programs not just to increase the quantity of the children served. (Tx)

8. We must have both of these priorities, not just the unserved. (Ill.)

9. With funds to support additional services needed for severely handicapped, includes buses and facilities. (Fla.)

10. Same as Mathias Amendment. But allow some lead time and require planning opportunity so that the process can be conducted orderly, efficiently and effectively. (Ca.)

(4) Requires each LEA to maintain an individualized written education program for each handicapped child, to review this program at least annually and to revise the provisions of this program. This program will be developed and agreed upon jointly by the parents of the child, the child, when appropriate, the teacher and the LEA.

Comments:

1. I believe it will take at least two years to implement. Not realistic for FY '76. (Maine)
2. Agree with concept. Simply do not have sufficient supportive personnel to give more than lip service. (Ky)
3. Unrealistic (Ohio)
4. Many contingencies in terms of financing. (S.C.)
5. Support concept but implementation will take time. (Wisconsin)
6. Need a long time to implement this. (N.Y.)
7. LEAs must have a year or so to tool up for this. Need at least two years lead time. (W. Va.)
8. Strongly support. (Ga.)
9. (Non-support)--but would support for FY '76 if sufficient funds were appropriated.
10. Texas currently requires this.
11. Not enough time to implement by 1976. (Oregon)
12. California's master plan for special education requires individualized instructional planning. Most school districts already employ this technique.
13. To implement this would be a farce--how about all new students entering the program, we cannot realistically do this in one year for 140,000 students. How about some pilot projects? (Fla.)
14. We have them now. (Ill.)

(5) Requires SEAs to be the sole agency for carrying out the act and that all education programs including those administered by another state agency will be supervised by persons in the state educational agency responsible for the education of handicapped children.

Comments:

1. Most important section of S.6. If no other section is passed but this, the effort and result will be extremely worthwhile and beneficial. However, the wording should specify all set asides including Voc-Ed, III, etc. (Ga.)
2. Covered by Maine's state law.
3. State law and governor assign responsibilities to state agencies. (Ky)
4. Conflict with state law. (Ohio)
5. Contingent upon definition of education and must be clearly articulated by his/her authority (other than SEA) to other agencies. (S.C.)
6. Takes time to get this done in state government. (W. Va.)
7. SEA could end up with the responsibility but not the authority. Related changes needed here. (Arizona)
8. Need to insure that other agencies have a parallel statement inserted in their legislation. Cannot legislate this just on SEAs. (Va.)
9. Oregon is not ready for this yet, but we agree in principle.
10. Better have some "teeth in this provision with lots of specifics". (Tx.)
11. Excellent (Ill.)
12. Can't work--need to begin working--the governor is officer for this. (Ind.)
13. This has to happen in order to bring about appropriate coordination and delivery of instructional programs to handicapped children. Federal law would have to make clear the authority of the state education superintendent for administration and supervision of education programs operated by other state agencies. (Ca.)
14. I believe in it, but it would be very difficult to implement. (Fla.)

(6) Requires planning and advisory panel to prescribe general policies for determining priorities within the State.

Comments:

1. Support advisory panel. Wording needs to be changed. Advisory panels advise and do not determine and/or prescribe policies and priorities. (Md.)
2. Support as long as SEA has final authority as to the composition of the membership. Priority setting seems to be inconsistent with 93-380 requirements of unserved. (Ga.)
3. Should not be "separate" advisory for VI-B. (Ky.)
4. Board could only advise. (N.Y.)
5. Policies must be approved by board of education before they become official. (W. Va.)
6. Must play an "advisory", not a legal role. (N.C.)
7. Would support if "prescribed" was changed to "recommend" or suggest" or "assist in the development of". (Va.)
8. Must include or at least have impact on Title VI-D. (Va.)
9. Texas currently follows the required planning procedure.
10. Should be a process of the total program. (Utah)
11. Most states may have this. California has a "Commission on Special Education" which advises the State Board of Education in its policy setting activities. (Ca.)
12. We have this now. (Ill.)

(7) Requires procedures for the development and implementation of a comprehensive system of personnel development which includes the inservice training of general and special education personnel.

Comments:

1. This is in process in Maryland but complete implementation needs to be given phase-in time.
2. Redundant! (Non-support)
3. (Non-support) unless sufficient dollars are available to carry out the task. (Ky)
4. Will need two years additional time. (Maine)
5. Need a three year period to put into action. (Wisc.; N.Y.)
6. Will be difficult to implement but should be a mandate. (Wy)
7. Oregon hopes to have a comprehensive state plan for the education of handicapped children within a year, after FY '76 we could endorse this requirement.
8. It would be better planning if this were required in FY '76 and the full service goal required in 1980. (Tx.)
9. Priorities must not be diverted from the needs of a child. (Ill.)
10. Federal laws might well consider the desirability of requiring states to (1) place authority for credentialling under the State Superintendent of Public Instruction, or (2) set forth a plan whereby the state superintendent is fully represented in all matters of certification. (Ca.)

(8) Requires the State to establish procedures which assure that handicapped children in private schools will be provided special education and related services at no cost to their parents if such children have been referred to such schools or facilities as a means of carrying out the provisions of this act or other law requiring the right to education for each handicapped child, and to assure that each child has all the benefits and rights they would have if served in a public educational agency.

Comments:

1. Language is pretty strongly worded. (Md.)
2. (Non-support) unless language specifically states that referral to non-public schools is contingent on the fact that the LEA does not provide such programs and is unable to arrange for contractual agreements with adjoining LEAs. Should raise the question that if this section is passed, such expenditures should be an approvable Title VI-B expenditure. (Ky)
3. Would support when the state is in compliance with S.6 in providing full educational opportunity. If not the state would not be encouraged to meet the mandate. (Dela.)
4. Covered by our present state regulation. (Maine)
5. Could not implement with existing personnel. (N.Y.)
6. State does not control private programs. (Wisc.)
7. By 1980, not FY '76. (Tx.)
8. This requirement is close to present Oregon law.
9. Concept is all right and somewhat consistent in many states, California for example, but some limit must be placed on costs levied by private schools. Propose that costs not exceeding the state public school average be allowed, with provision for parents to pay the excess cost. (Ca.)
10. The tuition costs of private schools in Illinois ranges from $2,000 to $10,000 per child. There must be some criteria to the run-a-way costs for tuition that we are now experiencing. LEAs should have the option of keeping the child, developing new programs, and be eligible for the same tuition funding as the private schools. (Ill.)

(9) Maximum allowable for state administration is 1.5% of total state grant or $75,000, whichever is greater.

Comments:

1. Formula is unrealistic, unfeasible and discriminatory. With all the hearing and objections raised, I cannot understand why they still cling to the excess cost formula. (Md.)

2. Support as long as hold harmless on administration funds is contained. (Ga.)

3. Of necessity (FY '76) (S.C.)

4. Ohio would go broke

5. Percentage is ok providing minimum is $200,000 for administration. Administration is more than "fiscal", i.e., professional development, leadership, in-service, etc. (Ky.)

6. $75,000 would not be enough to monitor the effects of S.6 for a small state. The existing VI-B programs cost $50,000 to monitor and implement now. (Dela.)

7. I agree, as I believe the state should have a commitment. FY '76 implementation may mean the loss of some jobs now funded under VI-B. (Maine)

8. Amount is totally inadequate for assigned responsibilities, (at present level of funding). (Mich.)

9. Since we are a small state with administration problems of a large state, we greatly need and can use all the administration money we are eligible for, and more. (Arizona)

10. Need a minimum of $300,000 administration money (Wisc.)

11. No less than the current allocation should be allowed. Otherwise some current activities and staff would need to be terminated. (Wy)

12. Dependent on definition of "state administration."

13. Amend to read 5% of total state grant or $200,000 whichever is greater. (Tx)

14. The amount of $75,000 for the efficient administration of the program is not adequate. (Oregon)

15. Would be better to have a fixed amount since authorization levels are not always fully funded.

16. Totally inadequate for Illinois.

Provision (9) Comments (Cont'd)

17. Too low. (Ind.)

18. Please note that the present level is $200,000. Most states would not provide the funds for state administration staff necessary to carry out the intent of suggested Federal laws. Present funding @ 1.5% would mean about $2-3,000 making the $75,000 the maximum. It takes $25-30,000 to support one professional person, three people could not even do the paper work involved in meeting reporting requirements. (Okla.)

19. No way for us to do what is wnated with less state dollars. We now get $200,000 and that is minimum. The percentage aspect should possibly be 5% up to $10,000,000, 2 1/2% up to $20,000,000 and 1 1/2% after that. (Fla.)

20. Write in a "fail safe" or grandfather clause so no state will be entitled to less money for administration purposes than would be received under VI-B. Recognize that administration of handicapped children's programs is somewhat more complicated and demanding than many other programs. (Ca.)

Senator RANDOLPH. You and your staffs of course have been very helpful. Your leadership has been very noteworthy. I thank both of you, Dr. Wolf and Dr. Galloway.

Mr. Brady, Dr. Koontz, and Mr. Schloss, will you come to the witness table? Beverly Rowan, Janet Rhoads, Eva Johnson; we will add additional chairs, if necessary.

Dr. Jack Brady, we know the position you hold in West Virginia, but today you are testifying for the Council on Education on the Deaf. Will you identify yourselves? I think it might be good at the outset to have each person sitting at the table to identify himself or herself.

STATEMENT OF JACK W. BRADY, SUPERINTENDENT OF THE WEST VIRGINIA SCHOOLS FOR THE DEAF AND THE BLIND, REPRESENTING THE COUNCIL ON EDUCATION OF THE DEAF; DUDLEY KOONTZ, UNITED CEREBRAL PALSY OF IOWA, REPRESENTING THE CONSORTIUM CONCERNED WITH THE DEVELOPMENTALLY DISABLED; BEVERLY ROWAN, KENNEDY FOUNDATION, REPRESENTING THE CONSORTIUM CONCERNED WITH THE ADULT MENTALLY DISABLED; JANET RHOADS, OCCUPATIONAL THERAPIST, REPRESENTING THE AOTA WITH THE CONSORTIUM; EVA JOHNSON, BOARD OF DIRECTORS OF THE NATIONAL ASSOCIATION FOR RETARDED CITIZENS; REESE ROBRAHN, REPRESENTING THE AMERICAN COUNCIL OF THE BLIND; IRVIN P. SCHLOSS, REPRESENTING THE AMERICAN FOUNDATION FOR THE BLIND, AS WELL AS THE AMERICAN ASSOCIATION OF WORKERS FOR THE BLIND AND BLINDED VETERANS ASSOCIATION

Mr. BRADY. I am Jack Brady, superintendent of the West Virginia Schools for the Deaf and the Blind. I am today representing the Council on Education of the Deaf.

Mr. KOONTZ. I am Dudley Koontz, United Cerebral Palsy of Iowa, representing the Consortium Concerned With the Developmentally Disabled, together with three other panel members.

Ms. ROWAN. Beverly Rowan, from the Kennedy Foundation, today representing the Consortium Concerned With the Adult Mentally Disabled.

Ms. RHOADS. Janet Rhoads, an occupational therapist, representing the AOTA with the consortium.

Ms. JOHNSON. Eva Johnson, board of directors of the National Association for Retarded Citizens.

Mr. ROBROHN. Reese Robrohn, representing the American Council of the Blind.

Mr. SCHLOSS. Irvin P. Schloss, representing the American Foundation for the Blind, as well as the American Association of Workers for the Blind and Blinded Veterans Association.

Senator RANDOLPH. We thank you very much.

Dr. Brady?

Mr. BRADY. Thank you, Senator Randolph. It is a pleasure for me to be here. The Council on Education of the Deaf appreciate this opportunity to lend our support to legislation affecting the handicapped.

I would be remiss if I did not express publicly our appreciation to the Congress and to this committee for their continuous support of Federal programs not only for the deaf, but for all of the handicapped.

During the 93d Congress, some of my colleagues from the Council on Education of the Deaf appeared before this committee in support of S. 6.

Their testimony is on record in the proceedings of the hearings conducted by this committee. I am here this morning to restate our support for this legislation and to also voice our support for S. 1256 and S. 1264 which amend the Education of the Handicapped Act.

Our association believes that comprehensive educational services for the deaf and other handicaps can best be provided through a unified approach involving all agencies—Federal, State, local, and private.

S. 6 provides the opportunity for grassroots input from consumers, parents, teachers, and others directly involved in the delivery of services. This enhances the chance for good statewide planning and gives the State flexibility in developing plans to meet the needs of their particular children.

Another strong point of S. 6 is the provision for an "individualized written educational program" for each child. However, this will be a difficult requirement for many States to implement within the given time periods and will require considerable time and funds.

To emphasize this point, I would like to use the State of West Virginia as an example. West Virginia this year is implementing a statewide program of mandated special education. The members of my staff and I have been requested by the State department of education to assist local school systems in establishing programs for the deaf and the blind.

These county systems are sincerely attempting to establish programs for all of their handicapped youngsters. However, it is quite obvious that they will need more time and funds to identify children, to do needs assessments, and to develop comprehensive plans. I am sure this is true for many school systems throughout the country.

Both Senator Mathias and Senator Randolph indicated when they introduced S. 1256 and S. 1264 that the amendments are not in competition with S. 6. We share this view.

Dr. Leo Connor testified before this committee just over 2 years ago, and he made the following statement, which I would like to restate as our view on S. 6:

> We look upon Senator Williams bill S. 6 as the next step upward in the creation of an overall comprehensive opportunity to have the education of the handicapped at the local and the State levels, through the infusion of Federal funds, a very visible and a very important and a very comprehensive type of educational reality.

We still hold to this view, however, we feel the increased funding provided for in S. 1256 and S. 1264 is necessary if we are to continue ongoing programs and expand services to other children. As has been stated many times, we are still not providing services to many children.

Senator Randolph emphasized this point very well when he introduced his amendment. He reported that West Virginia's State Superintendent of Schools had reported that while West Virginia's program support for the handicapped had grown by 500 percent in the last few years, our State is still serving only one-half of the children in need.

So while we have made great progress, there still remains much to be done.

This concludes my very brief remarks this morning in support of this legislation. I am available for questions.

Senator RANDOLPH. Thank you very much, Dr. Brady. Just for the record, could you tell me what the enrollment is now at the Schools for the Deaf and Blind in West Virginia?

Mr. BRADY. 300.

Senator RANDOLPH. How would that break down?

Mr. BRADY. Blind students, 99; deaf, 194; and deaf-blind, 7.

Senator RANDOLPH. How does that compare with the attendance of other years?

Mr. BRADY. It has been fairly stable for the last few years. It has been in the same neighborhood of 300 to 310, 315, over the last 4 or 5 years.

Senator RANDOLPH. Are your facilities adequate at the present time?

Mr. BRADY. Yes, sir.

Senator RANDOLPH. Your equipment?

Mr. BRADY. Yes, sir. We are in a building program, and it is continuing with State funds.

Senator RANDOLPH. Thank you very much, Dr. Brady. We know what you are doing there at our State level. We know also of your leadership in the group for whom you speak today. We will have perhaps some questions that we will be asking for the record to be answered by you. In all cases, your statements will be included in full in the printed record.

Senator RANDOLPH. Mr. Koontz, would you testify?

Mr. KOONTZ. Mr. Chairman, we come before you representing the consortium concerned with the developmentally disabled, an ad hoc Washington-based organization of over 20 organizations representing and speaking for the developmentally disabled.

We appreciate the opportunity to appear before the subcommittee on behalf of the population that we serve in order to discuss education legislation.

This statement broadly represents the feeling and the philosophy of the consortium members. Several of the consortium members will be appearing before this committee with their individual statements while other organizations will be submitting written statements for the record.

In general terms, however, the statement today represents the views and the concerns of the consortium concerned with the developmentally disabled.

At this point, Mr. Chairman, we would like to take this opportunity to express our appreciation on behalf of the consortium to the committee and to its staff for the excellent cooperation and support over the past few years.

Your sincere dedication and commitment to the people we are all trying to serve is evident by the frequent contacts and open channels of communication between your staff and our organizations.

As we all strive to provide an appropriate education for all handicapped children, we must carefully consider those recent statistics published by the Bureau for the Education of the Handicapped, which point out that barely one-half of school aged children and less than one-fourth of preschool age children are receiving special education.

Who are these unserved children? Why haven't they been given the opportunity to attend public schools as other children have? A significant number of these unserved are severely handicapped youngsters. The multiple handicapped, the profoundly retarded, those with special medical problems, those in institutions and out-of-home care. These are the children who historically have been excluded from public schools. The alibi systems are lengthy and diverse.

It costs too much; they can't profit from an education; it is not the education department's responsibility; there are no qualified teachers—there aren't enough children to start a new class; and on and on.

Senator RANDOLPH. I remember that in 1936 when our facilities hearings were held in the House, that the Assistant Postmaster General came before us representing the Post Office Department and said the blind can never operate these facilities. He said that they couldn't be trained for this work.

I remember so very well what was said then. However, 3,650 blind persons today are operating these facilities throughout the country. We hope to include another perhaps 2,000 or 3,000 in the next 5 years. The blind themselves are the ones who have proved the program worthwhile and have justified that which we did so long ago.

Mr. KOONTZ. Yes, I am sure that many of these alibis are well meaning and sincere. I expect that that does nothing to diminish the impact on those who are being denied their constitutional rights to a free public education.

The new provision in Public Law 93–380, which establishes a priority in the use of Federal funds under that law for children not presently receiving an education is most vital.

We strongly recommend adopting the language contained in S. 6, which gives priority to those children with the most severe handicaps. These children are by far the most educationally neglected children in our country.

Priority to serve them first with Federal education dollars is a must. In most States, it will be their only chance to receive services. The time is long past due that these children are considered first and not last.

It is also a time for the responsibility for educating all children within a State to be fully delegated to the State education agency This agency should be responsible to oversee all education programs for all children within that State, regardless of the location or the administration of the educational facility.

Educational programs in institutions, usually operated by State agencies other than the education agency, are almost always poorer than those in regular systems. A child's residential setting should not dictate the quality of his education. All children should have access to an appropriate education. We urge this committee to strengthen the State agencies' role in each child's education.

For many years legislation proposed and passed by Congress has focused upon the delivery of an appropriate educational opportunity for every handicapped child at public expense. We applaud and support this goal. Our concern rests with the lack of any concrete legislation specifically aimed at the development of a precise guarantee for all school age children to be afforded an educational opportunity.

This would bring all of the school districts of the Nation, by legislative mandate, in compliance with the constitutional right of equal protection with respect to handicapped children and youth as well as with the numerous court orders.

We strongly urge the development of an effective compliance mechanism which will insure that every school age handicapped child in every State will have available and accessible to him or her a free, appropriate public education at no additional cost to parents or guardians.

This should be made in the least restrictive environment with due process guarantees in all matters of identification, evaluation, placement, and revaluation. It is essential that Congress mandate through legislation the establishment of such compliance mechanisms.

The consortium concerned with the developmentally disabled stands ready to assist the Congress, in whatever way it may deem appropriate in the development of a mechanism or mechanisms which will assure the compliance on local and State levels by school systems charged with this responsibility.

Congress has mandated that educational services be made available and the courts have concurred. Now it is time for the Congress to develop a mechanism to insure that what it and the courts have decreed does in reality take place.

Mr. Chairman, from the standpoint of the existing formula and corresponding authorization levels in existing basic State grant program (EHA-title VI-B) we are faced with a most curious and urgent situation.

The so-called Mathias formula exists for fiscal 1975 only; in fiscal 1976 and fiscal 1977 we return to those very constricting authorization levels of $100 million and $110 million.

These figures are, upon reflection, actually a contradiction of the long-range intent of both the "Mathias formula" and the proposed amendments now under consideration; namely, a susbtantial increase in the Federal financial commitment toward the education of America's handicapped children.

The desire to increase that financial commitment is evident in the appropriation committees of both Houses, since the State grant program now has a $100 million appropriation for fiscal 1976, identical to the authorization level; and it may be fully anticipated that the Congress will advance-fund for fiscal 1977 at the full authorization level of $110 million.

Obviously, the monetary reservoir made available in the authorizing mechanism is filled to flooding.

Of equal significance is the unusual circumstance of observing prominent members of the appropriations committees in both Houses publicly and privately expressing their anxiety that the authorization levels are simply inadequate.

But even more significantly, it is those factors beyond these walls and around the Nation which conspire to bring us to the moment of pressing clamor for increased Federal support, that is, numerous States struggling and failing to meet their own implementation dates for "full service" because of severely constricted budgets, an increasing number of court decrees ordering immediate "full service" for the plaintiff class, and the mounting voice against neglect from parents and advocates which can no longer be quelled by bureaucratic gestures.

Mr. Chairman, the formula for the State grant program to which we are imminently about to regress must be revised on the most urgent timetable.

The consortium concerned with the developmentally disabled has developed a continuing working relationship with the Bureau for the Education of the Handicapped (BEH). BEH has been extremely cooperative with and sensitive to the private education sector.

Several members of the consortium meet regularly with BEH officials, including the Associate Commissioner. We would like to emphasize to this subcommittee the dedication, sincerity, and leadership of Edwin Martin, Ed. D., Associate Commissioner of BEH.

When one keeps in mind the numbers of excluded disabled children from public classrooms and the volume and scope of right to education as a consortium and as individual organizations, we must say with all sincerity that a still larger Federal effort is essential as well as required.

Mr. Chairman, we will be happy to respond to any questions you may have.

Senator RANDOLPH. We do want to commend you, Mr. Koontz, for your efforts. Ms. Rowan, I wonder if, briefly, you would identify what work the Kennedy Foundation does in this field.

Ms. ROWAN. The Kennedy Foundation of course is extremely concerned with the mentally retarded, mentally retarded individuals of all ages. One of their chief concerns in the Education bill is for the provision of physical education and recreation services for handicapped children of all kinds.

The foundation as you are aware, Senator, has been extremely active throughout the country in the development of a special Olympics program.

Senator RANDOLPH. I remember I had the joy and responsibility of joining as cosponsor with Senator Kennedy in reference to his program. I do appreciate your mentioning it here today.

Janet, will you tell us what your organization is doing?

Ms. RHOADS. Yes. I am with the American Occupational Therapy Association which, of course, traditionally from our background we have been identified with medical institutions and rehabilitation centers.

Now, I think with the education for the handicapped being mandated and certainly involving younger children, there is a need for a different concept of what education is, that certainly means preparing children who have physical disabilities to even write in a classroom. Certainly classroom teachers are not equipped to handle the many problems that come up with the physically handicapped child.

So we are very much involved now in the development of educational programs for the handicapped and, in fact, my job now is within a school system as a resource person to teachers, helping them to identify the kinds of problems and helping the teachers deal with those problems in the classroom. It is a tremendous problem.

Senator RANDOLPH. Thank you very much. Are you saying that an early childhood program will give to the child the tools with which to live a more normal life?

Ms. Rhoads. Right.

Senator Randolph. But if we wait, time will be lost and the child will not be able to catch up. Isn't that true?

Ms. Rhoads. That is right. In the county where I am, we have several preschool programs. I am primarily involved with the perceptual motor development, with children with a learning disability.

It is amazing the difference if you get them when they are 3 years old, the changes that you can make by the time they are 5 and 6. They can go into some of the regular classrooms and function much more independently.

Senator Randolph. Thank you very much.

Dr. Johnson.

Ms. Johnson. I just want to add a statement to what has just been said. We need to keep in mind that education begins in the cradle, not when the child is 2, 3, 5, or whatever, at birth and throughout the span of life.

I speak for the education committee of the National Association for Retarded Citizens. The national association is supported by some 1,500-plus ARC's throughout the Nation in our 50 States.

The national association is an agency that is concerned with the education of the retarded and that is why I am here. I am also a member of the education committee, the education of individuals from birth on, throughout the entire lifespan.

We are also concerned with research and stimulation of research, funding wherever we can get the funding. We are concerned with legislation. Otherwise, we wouldn't be here today.

We are concerned with all kinds of programs. We are concerned with advocacy. We are concerned with parent education. These are some of the major areas that the National Association provides stimulation for throughout the Nation.

We hope, eventually, and not in the too distant future to have a membership in the National Association approximating 1 million volunteer members.

Senator Randolph. Thank you very much, Eva. We have tried to do what you are indicating with preschool children. Finally, Dudley, we know how continuing efforts by you are making an imprint in these fields. We are going to want to work with you. We are very, very appreciative.

Also, I have said that some of us have perhaps not an overriding but a very special interest in the blind. Irvin, will you identify yourself?

Mr. Schloss. Yes, sir; My name is Irvin Schloss. I am the Washington representative of the American Foundation for the Blind. I am speaking today for the American Association of Workers for the Blind and Blinded Veterans Association as well.

In view of the time, Mr. Chairman, I will be quite brief. The organizations I am representing have historically advocated the concept of a free, appropriate public education for handicapped children with individualized, special education procedures which would enable each handicapped child to achieve as comprehensive an elementary and secondary education as he is capable of achieving.

We believe that the provisions of S. 6 are overdue and that they would go a long way toward assuring a free, appropriate Federal financial aid that would make this possible.

We would like to recommend some clarifying and strengthening amendments to S. 6. One of these in the definition section, section 602, subsection (7), would add reading machines and other technological aids to the equipment authorized.

In section 602, subsection (16), we recommend the addition of orientation and mobility instruction as well as reader services for the blind and interpreter service for the deaf.

With regard to orientation and mobility instruction, this is particularly important at the earliest possible age in order to facilitate a visually handicapped child's full development.

We would also recommend inclusion of parent counseling as a service, especially in view of the thrust toward deinstitutionalization.

With regard to the financing method, although we certainly concur in the concept of assisting in financing the excess cost of educating handicapped children, we do believe that it would be administratively simpler to extend the present entitlement formula, especially since there is no easy authoritative way of determining what excess cost actually is from what we have been able to learn.

We would, therefore, recommend enacting the provisions of S. 1264 for the allocation formula in S. 6.

We wholeheartedly endorse the affirmative action plan set forth in S. 6, and believe that this would help considerably in furthering employment opportunities for qualified handicapped individuals in special education programs.

I believe, Mr. Chairman, that I will conclude my oral remarks at this point.

Senator RANDOLPH. Thank you, Irvin. We have looked upon you as the spokesman for, I believe, three organizations.

Mr. SCHLOSS. Yes.

Senator RANDOLPH. We draw on your knowledge and we appreciate your efforts. We are going to keep very close in touch with you as we develop the legislation. Thank you very much.

Yes?

Mr. SCHLOSS. We would like to say that Judge Reese Robrahn of the American Council of the Blind is here to add a few oral remarks to what has been said.

Senator RANDOLPH. I am sorry. Our agenda did not indicate his presence, but I would like to give you the opportunity to speak, Judge.

Mr. ROBRAHN. Thank you, Mr. Chairman. I won't take a great deal of time, as Mr. Schloss was authorized by the American Council of the Blind to submit a written statement on our behalf, as well as the other three organizations, which he has done.

I wanted to place a little more emphasis on some of the one or two things that he said and some of the other witnesses have said. Particularly, I want to refer to the necessity for some preschool services.

I always like to put it this way: That there are certain learning moments in the development of the human being. If the child or the human being, as he develops, does not experience the learning experience that he should during that learning moment, then it becomes a very difficult task for him to learn at a later time. It frequently is very expensive for him to be taught that and, frequently, the result is inferior.

It particularly applies to blind children because of the fact that 80 percent of the stimulus for learning in the life of a young baby is visual.

When a child does not have that visual stimulus, then his parents must see to it, or his guardians, that he receives that stimulus through all other actual means. In other words, he must not be overprotected. He must be allowed to examine his environment grossly through all other means. So it is not so much a very technical or sophisticated service that some of the handicapped children need at this early age. It is counseling that the parents need from qualified persons.

The other point I want to make simply is that S. 6 does provide for evaluation and an individual plan for each child, which we wholeheartedly support.

But from personal observation, from Kansas having gone through the process of getting a mandated bill through our legislature last year, and having observed the problems that we have in setting up the evaluation team, I think that more emphasis in this bill should be placed on the necessity for highly qualified people to serve on the evaluation teams and to assist in diagnosis. It is on the basis of that evaluation that the ultimate educational program for that individual child is based.

Thank you.

Senator RANDOLPH. Thank you very much, Judge Reese Robrahn. We are gratified that you have supplemented the words of our colleague Irvin, who keeps in touch with us.

Mr. ROBRAHN. Mr. Chairman, I might add that we were very grateful in Kansas to have the benefit of what was in S. 6 as introduced in the 93d Congress when we were preparing our legislation. We are in substantial compliance with S. 6 as it now is in this Congress.

Senator RANDOLPH. Thank you. I thank all members of the panel, Mr. Koontz, all of you, the young ladies, representatives.

Thank you.

[The prepared statements of Mr. Brady, Mr. Koontz, and Mr. Schloss follow:]

STATEMENT

Respectfully Submitted to the
Subcommittee on the Handicapped
of the
Senate Committee on Labor and Public Welfare
on
S.6, S.1256 and S.1264
In Behalf of
The Council on the Education of the Deaf
April 8, 1975

by

Jack W. Brady
Superintendent
The West Virginia Schools for the Deaf and the Blind
Romney, West Virginia

Testimony

I am Jack Brady, Superintendent of the West Virginia Schools for the Deaf and the Blind, Romney, West Virginia. I am appearing on behalf of the Council on Education of the Deaf, an association composed of three organizations. The Alexander Graham Bell Association for the Deaf, The Conference of Executives of American Schools for the Deaf and The Convention of American Instructors of the Deaf. These three organizations have a combined membership of approximately 10,000. I am currently President of the Convention of American Instructors of the Deaf and serve on the Legislative and Executives Committees of the Council on Education of the Deaf.

I sincerely appreciate this opportunity to represent the Council on Education of the Deaf at this hearing and to lend our support to legislation affecting the handicapped. I would be remiss if I did not express publicly our appreciation to the Congress and to this committee for their continuous support of Federal programs for the handicapped.

During the 93rd Congress, some of my colleagues appeared before this committee in support of S.6. Their testimony is on record in the proceedings of the hearings conducted by this committee. I am here this morning to restate our support for this legislation and to also voice our support for S.1256 and S. 1264 which amend the Education of the Handicapped Act.

Our association believes that comprehensive educational services for the deaf and other handicaps can best be provided through a unified approach involving all agencies, Federal, State, local and private. S.6 provides the opportunity for "grass roots" input from consumers, parents, teachers and others directly involved in delivery of services. This enhances the chance for good state-wide planning and gives the state flexibility in developing plans to meet the needs of their particular children. Another strong point of S.6 is the provision for an "individualized written educational program" for each child. However, this will be a difficult requirement for many states to implement and will require considerable time and funds. The State of West Virginia is this year implementing a state-wide program of mandated special education. I and members of my staff have been requested by the State Department of Education to assist local school systems in establishing programs for the deaf and blind. These county systems are sincerely attempting to establish programs for all their handicapped youngsters. However, it is quite obvious they will need more time and funds to identify children, to do needs assessments and to develop comprehensive plans. I am sure this is true for many school systems throughout the county.

Both Senator Mathias and Senator Randolph indicated when they introduced S.1256 and S.1264 that the amendments are not in competition with S.6. We share this view. To emphasize this I would like to quote a statement made by Dr. Leo E. Connor, Executive Director of the Lexington School for the Deaf in New York City, when he appeared before this committee in March, 1973 supporting S.6. Dr. Connor said, "We look upon Senator Williams bill S.6, as the next step upward in the creation of an overall comprehensive opportunity to have the education of the handicapped at the local and the State levels, through the infusion of Federal Funds, a very visible and a very important and a very comprehensive type of educational reality." We still hold to this view, however, we feel the increased funding provided for in S.1256 and S.1264 is necessary if we are to continue ongoing programs and expand services to other children. As has been reported to you many times, we still are not providing services to many children. Senator Randolph emphasized this point very well when he introduced his amendment. He reported that West Virginia's State Superintendent of Schools had told him that while West Virginia's program support for the handicapped had grown by 500 percent in the last few years, our state is serving only one-half of the children in need.

Thank you for your attention. We are most appreciative of your concern and support.

STATEMENT

Respectfully Submitted

to

The Subcommittee on The Handicapped

of the

Senate Committee on Labor and Public Welfare

on

Education for All Handicapped Children

In Behalf Of

The Consortium Concerned With The Developmentally Disabled

Washington, D.C.

April 8, 1975

MR. CHAIRMAN, WE COME BEFORE YOU REPRESENTING THE CONSORTIUM CONCERNED WITH THE DEVELOPMENTALLY DISABLED, AN AD HOC WASHINGTON BASED ORGANIZATION OF OVER 20 ORGANIZATIONS REPRESENTING AND SPEAKING FOR THE DEVELOPMENTALLY DISABLED. WE APPRECIATE THE OPPORTUNITY TO APPEAR BEFORE THE SUBCOMMITTEE ON BEHALF OF THE POPULATION THAT WE SERVE. THIS STATEMENT BROADLY REPRESENTS THE FEELING AND THE PHILOSOPHY OF THE CONSORTIUM MEMBERS. SEVERAL OF THE CONSORTIUM MEMBERS WILL BE APPEARING BEFORE THIS COMMITTEE WITH THEIR INDIVIDUAL STATEMENTS, WHILE OTHER ORGANIZATIONS WILL BE SUBMITTING WRITTEN STATEMENTS FOR THE RECORD. IN GENERAL TERMS, HOWEVER, THE STATEMENT TODAY REPRESENTS THE VIEWS AND THE CONCERNS OF THE CONSORTIUM CONCERNED WITH THE DEVELOPMENTALLY DISABLED.

AS WE ALL STRIVE TO PROVIDE AN APPROPRIATE EDUCATION FOR ALL HANDICAPPED CHILDREN, WE MUST CAREFULLY CONSIDER THOSE RECENT STATISTICS PUBLISHED BY THE BEH WHICH POINT OUT THAT BARELY ONE-HALF OF SCHOOL AGED CHILDREN AND LESS THAN ONE-FOURTH OF PRE-SCHOOL AGE CHILDREN ARE RECEIVING SPECIAL EDUCATION. WHO ARE THESE UNSERVED CHILDREN? WHY HAVEN'T THEY BEEN GIVEN THE OPPORTUNITY TO ATTEND PUBLIC SCHOOLS AS OTHER CHILDREN HAVE?

A SIGNIFICANT NUMBER OF THESE UNSERVED ARE SEVERELY HANDICAPPED YOUNGSTERS. THE MULTIPLY HANDICAPPED, THE PROFOUNDLY RETARDED, THOSE WITH SPECIAL MEDICAL PROBLEMS, THOSE IN INSTITUTIONS AND OUT-OF-HOME CARE. THESE ARE THE CHILDREN WHO HISTORICALLY HAVE BEEN EXCLUDED FROM PUBLIC SCHOOLS. THE ALIBI SYSTEMS ARE LENGTHY AND DIVERSE.

IT COSTS TOO MUCH
THEY CAN'T PROFIT FROM AN EDUCATION
IT'S NOT THE EDUCATION DEPARTMENT'S RESPONSIBILITY
THERE ARE NO QUALIFIED TEACHERS
THERE AREN'T ENOUGH CHILDREN TO START A NEW CLASS
AND ON AND ON ....

THE NEW PROVISION IN P.L.93-380 WHICH ESTABLISHES A PRIORITY IN THE USE OF FEDERAL FUNDS UNDER THAT LAW FOR CHILDREN NOT PRESENTLY RECEIVING AN EDUCATION IS MOST VITAL. WE STRONGLY RECOMMEND ADOPTING THE LANGUAGE CONTAINED IN S 6 WHICH GIVES PRIORITY TO THOSE CHILDREN WITH THE MOST SEVERE HANDICAPS. THESE CHILDREN ARE BY FAR THE MOST EDUCATIONALLY NEGLECTED CHILDREN IN OUR COUNTRY. PRIORITY TO SERVE THEM FIRST WITH FEDERAL EDUCATION DOLLARS IS A MUST. IN MOST STATES, IT WILL BE THEIR ONLY CHANCE TO RECEIVE SERVICES. THE TIME IS LONG PAST DUE THAT THESE CHILDREN ARE CONSIDERED FIRST AND NOT LAST.

IT IS ALSO TIME FOR THE RESPONSIBILITY FOR EDUCATING ALL CHILDREN WITHIN A STATE TO BE FULLY DELEGATED TO THE STATE EDUCATION AGENCY. THIS AGENCY SHOULD BE RESPONSIBLE TO OVERSEE ALL EDUCATION PROGRAMS FOR ALL CHILDREN WITHIN THAT STATE, REGARDLESS OF THE LOCATION OR ADMINISTRATION OF THE EDUCATIONAL FACILITY.

EDUCATIONAL PROGRAMS IN INSTITUTIONS, USUALLY OPERATED BY STATE AGENCIES OTHER THAN THE EDUCATION AGENCY, ARE USUALLY ALWAYS POORER THAN THOSE IN REGULAR SYSTEMS. A CHILD'S RESIDENTIAL SETTING SHOULD NOT DICTATE THE QUALITY OF HIS EDUCATION. ALL CHILDREN SHOULD HAVE ACCESS TO AN APPROPRIATE EDUCATION. WE URGE THIS COMMITTEE TO STRENGTHEN THE STATE AGENCIES ROLE IN EACH CHILD'S EDUCATION.

FOR MANY YEARS LEGISLATION PROPOSED AND PASSED BY CONGRESS HAS FOCUSED UPON THE DELIVERY OF AN APPROPRIATE EDUCATIONAL OPPORTUNITY FOR EVERY HANDICAPPED CHILD AT PUBLIC EXPENSE. WE APPLAUD AND SUPPORT THIS GOAL. OUR CONCERN RESTS WITH THE LACK OF ANY CONCRETE LEGISLATION SPECIFICALLY AIMED AT THE DEVELOPMENT OF A PRECISE GUARANTEE FOR ALL SCHOOL AGE CHILDREN TO BE AFFORDED AN EDUCATIONAL OPPORTUNITY. THIS WOULD BRING ALL OF THE SCHOOL DISTRICTS OF THE NATION, BY LEGISLATIVE MANDATE, IN COMPLIANCE WITH THE CONSTITUTIONAL RIGHT OF EQUAL PROTECTION WITH RESPECT TO HANDICAPPED CHILDREN AND YOUTH AS WELL AS WITH THE NUMEROUS COURT ORDERS.

WE STRONGLY URGE THE DEVELOPMENT OF AN EFFECTIVE COMPLIANCE MECHANISM WHICH WILL ENSURE THAT EVERY SCHOOL AGE HANDICAPPED CHILD IN EVERY STATE WILL HAVE AVAILABLE AND ACCESSIBLE TO HIM OR HER A FREE APPROPRIATE PUBLIC EDUCATION AT NO ADDITIONAL COST TO PARENTS OR GUARDIANS. THIS SHOULD BE MADE AVAILABLE IN THE LEAST RESTRICTIVE ENVIRONMENT WITH DUE PROCESS GUARANTEES IN ALL MATTERS OF IDENTIFICATION, EVALUATION, PLACEMENT, AND RE-EVALUATION. IT IS ESSENTIAL THAT CONGRESS MANDATE THROUGH LEGISLATION THE ESTABLISHMENT OF SUCH COMPLIANCE MECHANISMS.

THE CONSORTIUM CONCERNED WITH THE DEVELOPMENTALLY DISABLED STANDS READY TO ASSIST THE CONGRESS, IN WHATEVER WAY IT MAY DE[illegible] APPROPRIATE, IN THE DEVELOPMENT OF A MECHANISM OR MECHANISMS WHICH WILL ENSURE THIS COMPLIANCE ON LOCAL AND STATE LEVELS BY SCHOOL SYSTEMS CHARGED WITH THIS RESPONSIBILITY.

CONGRESS HAS MANDATED THAT EDUCATIONAL SERVICES BE MADE AVAILABLE AND THE COURTS HAVE CONCURRED. NOW IT IS TIME FOR THE CONGRESS TO DEVELOP A MECHANISM TO ENSURE THAT WHAT IT AND THE COURTS HAVE DECREED DOES, IN REALITY, TAKE PLACE.

MR CHAIRMAN, FROM THE STANDPOINT OF THE EXISTING FORMULA AND CORRESPONDING AUTHORIZATION LEVELS IN EXISTING BASIC STATE GRANT PROGRAM (EHA-TITLE VI-B) WE ARE FACED WITH A MOST CURIOUS AND URGENT SITUATION. THE SO-CALLED "MATHIAS FORMULA" EXISTS FOR FISCAL 1975 ONLY; IN FISCAL 1976 AND FISCAL 1977 WE RETURN TO THOSE VERY CONSTRICTING AUTHORIZATION LEVELS OF $100 MILLION AND $110 MILLION. THESE FIGURES ARE, UPON REFLECTION, ACTUALLY A CONTRADICTION OF THE LONG-RANGE INTENT OF BOTH THE "MATHIAS FORMULA" AND THE PROPOSED AMENDMENTS NOW UNDER CONSIDERATION -- NAMELY, A SUBSTANTIAL INCREASE IN THE FEDERAL FINANCIAL COMMITMENT TOWARD THE EDUCATION OF AMERICA'S HANDICAPPED CHILDREN.

THE DESIRE TO INCREASE THAT FINANCIAL COMMITMENT IS EVIDENT ON THE APPROPRIATION COMMITTEES OF BOTH HOUSES, SINCE THE STATE GRANT PROGRAM NOW HAS A $100 MILLION APPROPRIATION FOR FISCAL 1976, IDENTICAL TO THE AUTHORIZATION LEVEL; AND IT MAY BE FULLY ANTICIPATED THAT THE CONGRESS WILL ADVANCE-FUND FOR FISCAL 1977 AT THE FULL AUTHORIZATION LEVEL OF $110 MILLION. OBVIOUSLY, THE MONETARY RESERVOIR

MADE AVAILABLE IN THE AUTHORIZING MECHANISM IS FILLED TO FLOODING.

OF EQUAL SIGNIFICANCE IS THE UNUSUAL CIRCUMSTANCE OF OBSERVING PROMINENT MEMBERS OF THE APPROPRIATIONS COMMITTEES IN BOTH HOUSES PUBLICLY AND PRIVATELY EXPRESSING THEIR ANXIETY THAT THE AUTHORIZATION LEVELS ARE SIMPLY INADEQUATE.

BUT EVEN MORE SIGNIFICANTLY, IT IS THOSE FACTORS BEYOND THESE WALLS AND AROUND THE NATION WHICH CONSPIRE TO BRING US TO THE MOMENT OF PRESSING CLAMOR FOR INCREASED FEDERAL SUPPORT ... i.e. NUMEROUS STATES STRUGGLING AND FAILING TO MEET THEIR OWN IMPLEMENTATION DATES FOR "FULL SERVICE" BECAUSE OF SEVERELY CONSTRICTED BUDGETS, AN INCREASING NUMBER OF COURT DECREES ORDERING IMMEDIATE "FULL SERVICE" FOR THE PLAINTIFF CLASS, AND THE MOUNTING VOICE AGAINST NEGLECT FROM PARENTS AND ADVOCATES WHICH CAN NO LONGER BE QUELLED BY BUREAUCRATIC GESTURES.

MR. CHAIRMAN, THE FORMULA FOR THE STATE GRANT PROGRAM TO WHICH WE ARE IMMINENTLY ABOUT TO REGRESS MUST BE REVISED ON THE MOST URGENT TIMETABLE.

THE CONSORTIUM CONCERNED WITH THE DEVELOPMENTALLY DISABLED HAS DEVELOPED A CONTINUING WORKING RELATIONSHIP WITH THE BUREAU FOR THE EDUCATION OF THE HANDICAPPED (BEH). BEH HAS BEEN EXTREMELY COOPERATIVE WITH AND SENSITIVE TO THE PRIVATE EDUCATION SECTOR. SEVERAL MEMBERS OF THE CONSORTIUM MEET REGULARLY WITH BEH OFFICIALS, INCLUDING THE ASSOCIATE COMMISSIONER. WE WOULD LIKE TO EMPHASIZE TO THIS SUBCOMMITTEE THE DEDICATION, SINCERITY, AND LEADERSHIP OF EDWIN MARTIN, Ed.D., ASSOCIATE COMMISSIONER OF BEH.

WHEN ONE KEEPS IN MIND THE NUMBERS OF EXCLUDED DISABLED CHILDREN FROM PUBLIC CLASSROOMS AND THE VOLUME AND SCOPE OF RIGHT TO EDUCATION AS A CONSORTIUM AND AS INDIVIDUAL ORGANIZATIONS, WE MUST SAY WITH ALL SINCERITY THAT A STILL LARGER FEDERAL EFFORT IS ESSENTIAL AS WELL AS REQUIRED.

AMERICAN FOUNDATION FOR THE BLIND, INC.

1660 L STREET N W
WASHINGTON D C 20036
TEL 202 293 [illegible]

STATEMENT OF IRVIN P. SCHLOSS, DIRECTOR, GOVERNMENTAL RELATIONS OFFICE, AMERICAN FOUNDATION FOR THE BLIND, TO THE SUBCOMMITTEE ON THE HANDICAPPED, U.S. SENATE ON S. 6, S. 1256, and S. 1264 on April 8, 1975.

Mr. Chairman and members of the Subcommittee, on behalf of the American Foundation for the Blind, the national voluntary research and consultant organization in the field of services to blind children and adults, I wish to affirm our strong support for enactment of S. 6, the Education for All Handicapped Children Act, with amendments designed to strengthen the legislation.

I am also specifically authorized to indicate support for this bill of three additional national organizations. These organizations are the American Association of Workers for the Blind, the national professional membership organization of workers with and educators of blind persons; American Council of the Blind, a national membership organization of blind persons; and Blinded Veterans Association, the national membership organization of blinded former servicemen and women.

All four of these organizations believe that every handicapped child should have the right to educational services at least equal to those he would be entitled to if he were not handicapped. We believe that each handicapped child is entitled to individualized special education procedures which will enable him to benefit from as comprehensive an elementary and secondary education as he is capable of absorbing, so that he can move into advanced education or other vocational training which will equip him to earn his own way in life as a contributing member of society.

The recognition of educational needs of the handicapped and decisive action by the Congress to meet these needs have been gratifying to those of us in national voluntary organizations who have seen increasingly critical problems in the education of handicapped children which only Federal financial assistance can solve. The outstanding leadership given by the Bureau for the Education and Training of the Handicapped in the Office of Education has been a major force in the progress made thus far in the effort to assure educational opportunities to handicapped children throughout the country. We are gratified that the Congress has strengthened the administrative structure of the Bureau. We hope that the integrity of the Bureau in administering all aspects of Federal programs relating to the education of handicapped children, including research, will be preserved and strengthened.

S. 6, with clarifying and strengthening refinements, is urgently needed legislation. The steadily increasing number of court decisions requiring states to provide appropriate free public education to handicapped children makes more emphatic the need for Federal financial assistance to meet the additional cost of compliance.

An equitable formula through which the Federal Government assists the states to meet the excess cost of educating handicapped children over the cost of educating nonhandicapped children would be an effective way of meeting this objective.

By requiring an individualized written education program for each handicapped child, as well as due process procedures for parents dissatisfied with educational services provided their children, S. 6 would minimize arbitrary rejection of handicapped children by school systems. The bill would also foster deinstitutionalization of handicapped children, too many of whom were too hastily institutionalized on the basis of inadequate advice and inadequate diagnostic procedures.

Among the refinements to S. 6 which we would suggest are the following:

1. Section 602(7) defining "equipment" should be amended to include reading machines and other technological aids. Technological advances have already resulted in the development of machines which convert the printed letter to a letter which can be read by touch. Research is progressing in the conversion of the printed word to an audible output. Aids like these should be made available under the Education of the Handicapped Act to handicapped children who can benefit from their use as these aids become technologically feasible.
2. Section 602(16) defining "related services" should be amended to include "orientation and mobility instruction for the blind and visually handicapped", "reader service for the blind and visually handicapped", and "interpreter service for the deaf" in the

parenthetical examples following "supportive services." Orientation and mobility instruction provided by professional specialists in any setting, including the home and school, at the earliest feasible age is a vital factor in the adequate development of a blind or seriously visually handicapped child. Reader service for the blind and visually handicapped and interpreter service for the deaf are essential supportive services outside of the classroom to enable children with these sensory handicaps to do home work and other education-related projects.

3. Although the reason for additional financial support to the states for educating handicapped children is clearly to cover the excess cost over the cost of educating nonhandicapped children, we believe that it would be administratively simpler to extend the existing entitlement formula for Part B of the Education of the Handicapped Act, especially since there is presently no authoritative method of determining excess cost. Therefore, we strongly urge enactment of S. 1264, which would extend the Part B entitlement formula for an additional two years.
4. State plan provisions should foster interagency cooperation within a state so that handicapped children in all institutional settings can be adequately served.
5. Section 613(a) should be amended to require parent counseling. This will be particularly important for the families of children who will receive special education services in a variety of settings, especially for the parents of deinstitutionalized children.

6. Reimbursable costs for special education and related services under Part B of the Education of the Handicapped Act should not include debt retirement, construction costs, or other capital outlays.

We specifically endorse the provisions of proposed Section 618 as contained in S. 6 establishing an affirmative action program for employment of qualified handicapped individuals in special education programs. This reaffirmation of the provisions of the Rehabilitation Act of 1973 should foster the creation of additional employment opportunities for individuals who have sometimes been arbitrarily barred from employment in education programs solely on account of their handicapping condition.

As the impact of improvements in the Education of the Handicapped Act to provide a free, appropriate public education to all handicapped children is increasingly felt, it will become even more urgent to assure the availability of professionally qualified teachers and other specialized staff. Therefore, the requirement contained in proposed Section 614(a)(3) coupled with other provisions of the Education of the Handicapped Act for training of personnel are particularly important.

In conclusion, the four national organizations I am representing endorse enactment of the provisions of S. 6 not contained in present law with the amendments recommended. In particular, we strongly urge substitution of the provisions of S. 1264 for the entitlement formula contained in S. 6.

Senator RANDOLPH. Council of Great City Schools, will you come to the table, please. Will you introduce yourselves?

STATEMENT OF SAMUEL B. HUSK, EXECUTIVE VICE PRESIDENT, THE COUNCIL OF THE GREAT CITY SCHOOLS, ACCOMPANIED BY LARRY HARRIS, SPECIAL ASSISTANT TO THE SUPERINTENDENT FOR URBAN AFFAIRS, MINNEAPOLIS PUBLIC SCHOOL SYSTEM; DR. WILLIAM L. LUCAS, ASSISTANT SUPERINTENDENT FOR GOVERNMENT RELATIONS, LOS ANGELES UNIFIED SCHOOL DISTRICT; AND DAVID RILEY, LEGISLATIVE COORDINATOR, COUNCIL OF THE GREAT CITY SCHOOLS, A PANEL

Mr. HUSK. I will introduce the people who are here with me. I am Sam Husk, executive vice president of the Council of Great City schools, a membership organization of 27 large urban school systems.

I am joined here this morning on my left, your right, by Larry Harris, from the Minneapolis Public Schools; Dr. William Lucas from the Los Angeles Unified School District; and David Riley, who has background in special education and who is in charge of legislative work for our council.

Senator, in view of your time constraint and in view of the fact that you already have our testimony, I would just like to highlight two or three points for you.

The first one is related to the level of commitment by the Congress to the special education area and, as many witnesses have pointed out to you, I am sure, to the need for this effort to be increased significantly.

The second is that we need to develop a better mechanism for getting funds down to the local school systems. We have some specific recommendations in that area that will come out of the comments by the gentleman from Minneapolis.

The third thing we want to point to is that we are supportive of the intent of both S. 6 and the Mathias legislation. We feel that these are worthwhile goals and they are goals which every major city school system has recognized and will strive to reach.

Senator RANDOLPH. You are saying in essence that the great cities, the so-called metropolitan areas, sometimes, maybe many times just do not receive the funds that are absolutely necessary for that congested population. Is that right?

Mr. HUSK. That is right. The limited funds have been distributed in a way which concentrates on research development and project development-type activities. Large city school systems are committed to a full service program, or the move in that direction, and, if they are to move in that direction a significant amount of funds has to be appropriated. The programs have to be developed and concentrated on helping the school systems develop their own full service programs.

We would like to see a significant amount of the funds passed on to the local school systems to meet the goals established by the Congress, with a limited portion left to the States for developmental programs.

Senator RANDOLPH. This problem is found not only in education programs for the handicapped. It goes across the whole board for you, does it not?

Mr. **Husk.** Right.

Mr. **Harris.** Mr. Chairman, just a couple of points: One of the problems that we face in the central city is the concentration of handicapped youngsters. This is due to a wide range of treatment institutions and facilities that have been developed in the city; it is also due to the fact that in the cities, half-way houses and other kinds of facilities are being developed for both delinquent and handicapped youths. As institutions across the country are being closed, many of these people are moving to the cities. We also have the impact of the relationship between the concentration of low-income families and school performance.

The other point that we would want to stress is one that was made by Mr. Husk on the commitment of services to special education youngsters. These services cannot be provided unless there are funds that pass through the State directly to the local education agency based on programs that are approved by the State for youngsters being served.

Senator **Randolph.** Thank you very much. Would you Pat, read that Minneapolis breakdown.

Mrs. **Forsythe.** According to a chart that accompanied your testimony, Minneapolis has an estimated 138,081 children, 3 to 21; right? The estimated percentage of State population, 3 to 21, is 9.5 percent. Senator Randolph would like to know if there was a local share or percentage of State allocation in 1974.

Is that figure unavailable or didn't you receive any money?

Mr. **Harris.** The figure wasn't available at that time. It is pointed out that the city of Minneapolis, from State and local funds, served over 20 percent of the handicapped students in Minnesota and that has been the percentage of the funds. This is the pattern across the country.

Mrs. **Forsythe.** You did get an allocation but the figure is not available?

Mr. **Harris.** It just wasn't available at that time.

Senator **Randolph.** Mr. Lucas?

Mr. **Lucas.** In the interest of time, Senator, I don't want to belabor the point that the large urban school districts especially in California are committed to providing services to the handicapped. In those large areas in the State of California, though, we have been handicapped financially by a new tax reform measure requiring that certain categorical taxes formerly directed at special needs, be folded into our general fund. Hence, the handicapped program must compete with the regular program and all of those programs incidental to the general fund.

It is something that is peculiar to California, but it is affecting our program.

We, too, represent the same problems that Mr. Harris and Sam Husk have talked about. The large city school districts in California are the oldest, in terms of time, school districts to have a full service program.

We tend to be a magnet for those parents who have children needing special services.

The five large school districts in California have 25 percent of the ADA, yet we have up to 40 percent of the handicapped.

We are also interested in a formula that will recognize that the large incidence of handicapped children is in large urban areas.

We look to the ESEA title I formula that is on an entitlement basis where the money actually seeks out the children, seeks out those to whom it is directed, and the intent of that money is then fulfilled. We would ask the committee to look at a mechanism similar to that.

We in California are used to the term "accountability." We are not afraid of accountability. In our printed testimony we alluded to this and propose maybe three components in a program that we could be held accountable for.

Senator RANDOLPH. Dr. Lucas, I understand you are looking for an equitable formula.

Mr. LUCAS. Yes. That is a quick way of saying it.

Senator RANDOLPH. I understand.

Mr. HUSK. We are thinking of a formula based on the number of children served. We are not advocating a 3-to-21 distribution down to the local levels, even though that might be advantageous to us. We are definitely interested in something which is program related. We also recognize the responsibility that we have to submit our programs to the State.

Senator RANDOLPH. What about the formula now, the entitlement?

Mr. HUSK. There is no formula other than the one that goes down to the State. Characteristically what has happened and what is still happening with the State allocations is that the funds are used for project grants.

Senator RANDOLPH. You want the money to come directly to you? You don't want the third party?

Mr. HUSK. Right. We want to be able to develop the projects at the local level, submit them to the State for approval, based upon the State plan, rather than setting out and making us get into competition for limited funds. This puts us in the ball game one year and out the next year; which really works at counterpurpose to our goal.

Senator RANDOLPH. That will be a formula that we will want to review. We have that in other Federal law in many instances. I won't go into it at this time.

Mr. HUSK. We will complete this chart here for your staff and for your inspection.

Senator RANDOLPH. The missing figures?

Mr. HUSK. Yes.

Senator RANDOLPH. I appreciate that very, very much, Mr. Husk. I just want you to know that the testimony that you have given us will be carefully considered by all members of our subcommittee, the full committee and the Congress. So we will work with you, Mr. Husk.

Mr. HUSK. Senator, we are appreciative of the chance to submit this for the record. We know that you will see to it that it gets to the rest of the members.

Senator RANDOLPH. You gentlemen do come from a distance, Minneapolis, Los Angeles. We are grateful that you could testify here today.

Thank you.

[The prepared statements of Messrs. Husk, Harris, and Lucas follow:]

Statement by
Mr. Samuel B. Husk
Executive Vice President, The Council of the Great City Schools
Before the
Subcommittee on the Handicapped
Committee on Labor and Public Welfare
United States Senate
Tuesday, April 8, 1975

Mr. Chairman and Members of the Subcommittee:

It is with pleasure that I appear today before the Subcommittee to discuss the views of the Council of the Great City Schools on three very important pieces of legislation: S.6, S. 1256, and S.1264. These legislative proposals once again bring the focus of educators and policy-makers to a most vital issue: the education of the nation's handicapped children and youth.

The Council of the Great City Schools has in its membership 27 of the largest school systems in the country. These school systems represent more than 11% of the nation's total school enrollment, 25% of its minority population, 30% of its poor, and an excess of 30% of its bilingual population. Of particular importance to this Subcommittee is the fact that in the area of educating handicapped children, our city school districts serve upwards of 40% of their respective state handicapped populations.

I am accompanied today by representatives from two of our member school districts. Mr. Larry Harris serves as Special Assistant to the Superintendent for Urban Affairs in the Minneapolis Public School System. Dr. William Lucas is Assistant Superintendent for Government Relations in the Los Angeles Unified School District. Both of these gentlemen are prepared to speak to the issue before us from a local education agency perspective. Also accompanying me today is Mr. David Riley who, as a National Level Intern under the University Council for Educational Administration, is serving this year as Legislative Coordinator for the Council.

My statement here today, as those of Mr. Harris and Dr. Lucas, reflects the concerns of those charged with implementing statutory and regulatory provisions that provide for the education of a great percentage of handicapped children and youth in the United States.

The federal government's involvement in the education of the handicapped has traditionally been one of capacity building; i.e., assisting state and local agencies in their efforts to provide better educational services to the handicapped by supporting training programs, innovative projects, and the development and dissemination of instructional materials. Last year, this Subcommittee and the Congress, in the Education of the Handicapped Amendments of 1974, shifted the major focus of the federal role from one of support to one of support with advocacy. By changing the formula to one of state entitlement and requiring major additions to state plan documents, the 93rd Congress significantly contributed to the opportunity of a handicapped child for an appropriate educational program.

While applauding the work of this Subcommittee and the Congress in passing the amendments of last year, we find that we must convey our deep concern that the Congress has not been able to follow-through with a commitment of sufficient appropriations to assist the states and localities in the implementation of the statutory goal of guaranteeing an education for every handicapped child. Further, the Congress did not provide an adequate way by which federal dollars could be passed through to local school districts with handicapped youngsters whose needs are currently not being served.

The first point, I am certain, has been spoken to by other witnesses you have heard today. I realize there is no lack of appreciation on this Subcommittee for the problems we face: given the objectives of the Mathias and Stafford Amendments and the findings of the Subcommittee that a minimum emergency appropriation of $666 million was needed. Despite your own efforts and those of organizations such as the Council of the Great City Schools, only $100 million was appropriated. We underscore the need for full funding of this program. The implementation of last year's amendments poses a monumental challenge to school districts. The full partnership of the federal government is required.

The attached letter from Dr. Matthew W. Costanzo, Superintendent of the Philadelphia Public Schools, highlights the need to review the way in which federal support for the education of the handicapped is distributed by the states to local school districts. The educational rights which we all seek for these children are implemented at the local district level. Yet, as Dr. Costanzo, Mr. Harris, and Dr. Lucas point out, the monies you have committed for this purpose have not been getting to a significant number of handicapped children. Further study of this problem by Council staff showed that all our large urban school districts faced this reality.

The attached chart, while not complete for all of our member cities, dramatizes this point. We appreciate that at this time the full impact of the new entitlement formula and level cannot be fairly assessed. However, the pattern of distribution last fiscal year suggests that dollars for the education of the handicapped are not distributed by several of the states in a manner that would most meaningfully impact upon the greatest numbers of children with handicapping conditions. Those Council member cities listed on the chart and for which there is complete data represent more than 13.5% of the nation's 3-21 population, and a much larger percentage of the country's handicapped population. Yet, these cities received less than 5% of the total Title VI-B appropriation in Fiscal Year 1974.

We realize that part of this stems from the limited amount of federal monies the states have to share and the overwhelming need of the large urban school district in relation to those monies. Faced with this problem, some states have put Title VI allocations to serve regional needs. In Texas, this results in a city such as Dallas receiving, in effect, no benefit. In states where distribution is made on a competitive grant basis, large cities have fared just as poorly due to the sheer number of competitors, not because of poor proposal quality or lack of need.

We are suggesting here today that a study be made of alternative ways in which federal monies for the education of the handicapped can be distributed by the states to the school districts. The Council of the Great City Schools and its member districts offer their assistance to the Subcommittee in such a study.

This recommendation should in no way, however, be seen as a restraint to your present efforts to pass meaningful new legislation. S.6 holds promise of having even more of an impact on the educational lives of the handicapped. While we support this Bill we have recommendations regarding two of its important provisions: the requirement of individualized written plans for each child in special education and the excess cost formula for distribution of federal support to the states. With regard to the first, we would suggest a phase-in period of years before this is actually required of the local school districts. The state plan amendments of 1975 and 1976 have not yet been implemented. Undoubtedly, many difficulties will be experienced before they are. We fully support the philosophy behind this provision but must state that the field is not ready to employ it. Teacher training institutions must begin offering programs which would develop the necessary skills for this task among their special education teachers. A massive re-education program must be initiated in the school districts so that regular and special education teachers are able to write such plans and act on them. Given what needs to be in place before such plans are fully realized, we believe a phase-in period of no less than five years is required.

As to the proposed excess cost formula for distributing federal support to the states for education of the handicapped programs, we would suggest that further study of this provision is necessary. Recent investigations show that the data which are critical to the defining of excess costs in this area are not available.

S.1256 and S.1264 bring attention to the present needs of education agencies while deliberation of these provisions of S.6 continues. We strongly support the extension of the present statute and funding ceiling into the next fiscal year or until such time as S.6 or another such bill becomes law.

As I am certain you realize, the large urban school districts of our country are beset upon by enormous problems. Demands of increased services, inflation, labor relations, and shifting population characteristics place weighty burdens upon schoolmen trying to plan and implement quality educational programs. We find several of our city school districts operating under unthinkable budget deficits of $20-$30-and $40 million. The fiscal picture of the total municipal systems within which the schools must function is just as bleak. Unemployment rises mean a "no" vote on critical school referenda which result in the schools having to contribute to the unemployment rate by laying off personnel. Obviously, the cut back in personnel creates a need to cut back in programs needed by children such as those we concern ourselves with today.

The Council of the Great City Schools is proud of the efforts made by its member districts in the area of education of handicapped children. The need for continued and increased federal assistance in meeting the challenges of this effort is critical. Again, the Council and its member districts stand ready to help the Subcommittee in any way.

THE SCHOOL DISTRICT OF PHILADELPHIA
BOARD OF EDUCATION
21ST STREET S. OF THE PARKWAY
19103

OFFICE OF THE SUPERINTENDENT OF SCHOOLS
[illegible]

March 21, 1975

Dr. Donald M. Carroll
Assistant Commissioner
Basic Education
Office of Basic Education
Pennsylvania Department of Education
Harrisburg, Pennsylvania 17126

Dear Dr. Carroll:

I am writing to ask your assistance in helping our School District to receive an equitable share of funds available to the State of Pennsylvania for the Education of the Handicapped, under Title VI, Section 614. According to our information, the State will receive $5 million, which is twice the amount received last year.

As you are well aware, the School District of Philadelphia has 13% of the State's public school population and over 40% of its handicapped children. Since Title VI, Section 614 allocations are based on a State plan, the School District of Philadelphia, in the past, has received only a small portion of these funds in relation to the total allocation for the State.

In light of the School District of Philadelphia's pressing need to educate handicapped children, we are appealing to you to provide Philadelphia with a minimum of $1.5 million of the State allocation so we can more adequately meet the needs of exceptional children in Philadelphia.

We need your help. If you wish, I will provide you with the details that seems to clearly justify my appeal.

Sincerely,

Matt Costanzo

Matthew W. Costanzo

/sb

EHA: City/State Population Estimates & Federal Dollar Distribution

City	Estimated No. Children 3-21	Estimated % of State 3-21 Pop.	State EHA Allocation FY 1974	State EHA Allocation FY 1975	City Share FY 1974	% of State Allocation FY 1974
Atlanta, Ga.	173,091	10.0	1,071,928	2,292,399	59,843	5.6
Baltimore, Md.	320,640	22.2	890,413	1,910,231		
Boston, Mass.	216,418	10.8	1,234,411	2,614,164	35,692	2.9
Buffalo, N.Y.	279,792	4.5	3,780,074	7,940,709		
Chicago, Ill.	1,126,944	28.3	2,449,176	5,148,004	0	0
Cleveland, Ohio	262,674	6.7	2,415,753	5,067,693	29,345	1.2
Miami, Fla.	360,373	16.1	1,380,063	3,068,037	99,967	7.2
Dallas, Texas	297,641	7.0	2,603,529	5,518,170	0	0
Denver, Colo.	171,326	20.4	516,770	1,142,175	51,800	10.0
Detroit, Mich.	515,286	15.1	2,092,865	4,399,160	245,000	11.7
Houston, Texas	459,655	10.8	2,603,529	5,518,170	0	0
Long Beach, Calif.	100,463	1.4	4,361,391	9,279,132		
Los Angeles, Calif.	1,002,850	14.1	4,361,391	9,279,132	260,000	6.0
Memphis, Tenn.	237,038	16.7	874,558	1,850,935	67,700	7.4
Milwaukee, Wisc.	249,791	14.9	1,030,782	2,181,611	123,337	12.0
Minneapolis, Minn.	138,081	9.5	893,353	1,889,037		
New York City, N.Y.	2,361,654	38.5	3,780,074	7,940,709		
Oakland, Calif.	109,730	1.[illegible]	4,361,391	9,279,132	0	0
Orleans Parish, La.	216,407	14.8	897,468	1,895,910	30,629	3.4
Philadelphia, Pa.	638,636	15.7	2,507,390	5,247,590	20,000	.8
Pittsburgh, Pa.	168,226	4.1	2,507,390	5,247,590	0	0
Portland, Ore.	118,827	16.0	457,842	981,197	34,000	7.4
St. Louis, Mo.	208,918	12.6	1,016,772	2,145,536	69,486	6.9
San Diego, Calif.	259,118	3.6	4,361,391	9,279,132	2,915	.07
San Francisco, Calif.	184,822	2.6	4,361,391	9,279,132	70,042	1.6
Toledo, Ohio	134,842	3.4	2,415,753	5,067,693	30,000	1.2
District of Columbia	251,032		200,000	363,419	200,000	1.0

April 1, 1975

EDUCATION OF THE HANDICAPPED IN A LARGE URBAN SCHOOL DISTRICT

A Statement
before the
Subcommittee on the Handicapped
of the
Committee on Labor and Public Welfare
U. S. Senate

By

William L. Lucas
Assistant Superintendent
Government Relations

LOS ANGELES UNIFIED SCHOOL DISTRICT
Los Angeles, California

April 8, 1975

We are grateful for the opportunity to present the views of the Los Angeles Unified School District on proposed federal legislation for the handicapped child. As a representative of a large urban district currently serving 40,000 handicapped children in special day schools, special classes and in regular classrooms, we are vitally interested in obtaining new sources of revenue to better serve our students with special needs.

As a large urban school district, we are a member of the Council of the Great City Schools. Council member school districts in California are Long Beach, Oakland, San Diego and San Francisco, as well as Los Angeles. These districts share common problems in their attempts to educate their handicapped students. Although the State of California is a recognized leader in the field of Special Education, it does not provide total financial support of the handicapped educational program of the local school district. Often, the local taxpayer supports a large share of the program. Local support varies from district to district. I can cite our own District's effort of providing approximately one-half of the program costs as an example of the efforts of a local citizenry to provide a complete program for handicapped youngsters.

Another commonality of large urban school districts is that in most cases the metropolitan areas serve a disproportionate number of handicapped children. For example, the five California school districts on the Council encompass approximately 25% of California's 3-21 year old population. In contrast, the member school districts serve from 35-40% of the State's total handicapped population.

In general, large urban school districts, because of the nature of their population, tend to provide more comprehensive special education programs. They tend to attract, as a magnet, families seeking specialized services for children with exceptional needs. Daily, letters of request for information regarding special services come to our District from parents ready to move to wherever services can be found.

Again, speaking as one member of the Council, allow me to present a brief overview of our program. At the present time, the Los Angeles Unified School District serves children in every category of exceptionality - including the profoundly, severely and educable retarded, hearing and visually handicapped, orthopedically and other health impaired, aphasic, learning disability groups, and the speech and language handicapped. In 1975-76, we will initiate a State-mandated program for autistic children.

Funding is provided from local, state and federal sources. Of interest to you will be the table accompanying this statement that depicts the varying costs and state/district support of educating children in the different categories of exceptionality. (See Attachment A).

The attachment reflects most of California's designated categories of exceptionalities. It shows Los Angeles' estimated 74-75 enrollments and per pupil costs. (Note: By California legislative action, State reimbursements will remain stable, while inflationary factors increase the costs of education. In effect, local costs and percentages of expenditures will rise.) The excess costs were computed by using a comprehensive district formula that accounts for a total educational program including salaries, support cost and transportation. The formula does not include capital expenditures.

I would like to take this opportunity to describe two more attachments for your review. Attachment B is an analysis of special education costs in the San Diego City Schools. Their analysis reflects the necessity of district funding to maintain special programs. Attachment C is a summary of 1974-75 EHA Title VI-B projects operating in Los Angeles. Note that Title VI-B grants in California are awarded on a competitive basis and that while we serve more than 15% of the State's handicapped population, our children are receiving less than 5% of the State's Title VI funds.

I hope that these attachments will demonstrate the commitment made by both our State and local districts to the special educational programs needed by our children. Also, I hope that they will illustrate the dynamic, ongoing programs that serve a large portion of the handicapped children in our districts.

Even with the diversity and magnitude of special services in the Los Angeles Unified School District (the largest in California), there are still waiting lists - as rapidly as dollars become available, we can serve those waiting. For example, our current waiting lists indicate that we have a need to establish 33 classes for 200 autistic children; 166 classes for approximately 2000 educationally handicapped children; and more than 30 classes for 200 multiply handicapped students. We also need 185 more speech therapists to serve an additional 16,000 speech and language handicapped children. We are not able to serve these children with existing funding sources.

In summation, we would like to offer the following recommendations for consideration by the Committee as you prepare educational legislation that will assist handicapped children:

LOCAL ENTITLEMENT - provide funds to the local educational agency as an entitlement based on the eligible handicapped population.

Our experience has shown that unless legislation establishes a district entitlement formula, the children in large districts often do not receive services in proportion to their numbers. ESEA Title

I programs are an example of funds being received equitably on the eligible population/entitlement basis.

An additional advantage of entitlement funding is that it provides a school district the capability to develop meaningful programs based on locally determined needs and priorities. Too often, competitive proposals become "grantsmanship awards" and lack significance in the total educational picture.

ACCOUNTABILITY - hold the local agency accountable for expenditure of funds within the following areas:

-Identifying Unmet Needs

-Instructional Services

-Support Services.

Identifying Unmet Needs: Staff development, parent education, community awareness programs and physical and educational assessment are necessary steps leading to the placement in an appropriate educational setting of those youngsters whose special needs are presently unrecognized or unmet.

Instructional Services: Surveying of existing programs, identifying instructional needs, establishing priorities, and providing appropriate personnel and instructional materials are the necessary activities that lead to an individualized instructional program differentiated for exceptional children.

Support Services: Components such as program supervision and coordination, counseling and psychological services, specialized transportation, and capital outlay represent services necessary in implementing and operating special educational programs.

Members of the Committee, we look forward to the initiation of a new federal program for the handicapped. We feel that future federal funding can be the change agent that will effect improvement in our continuing, comprehensive program of education for handicapped children. Thank you.

LOS ANGELES UNIFIED SCHOOL DISTRICT
Special Education Division

COMPARISON OF EXCESS COSTS VS. EXCESS COST REIMBURSEMENTS
1974-75 ESTIMATES BASED ON FIXED CALIFORNIA LEGISLATIVE SCHEDULES

Attachment A

Program/Designation	Estimated Average Daily Attendance 1974-75	Cost Per ADA Est. 1974-75	State Foundation Program 1974-75 (Weighted Avg.)	Estimated Excess Cost 1974-75	Special State Allowance For Excess Cost (Avg.)	ESTIMATED 1974-75 SOURCES OF EXCESS COST REIMBURSEMENTS STATE Support Percent	STATE Support Millions	LOCAL Support Percent	LOCAL Support Millions
PHYSICALLY HANDICAPPED									
Special Day Classes in Special Schools									
Hearing	457	$ 4,992	$ 875	$ 4,117	$ 2,846	69%	$1.30	31%	$ .58
Vision	126	4,379	871	3,508	2,184	62	.27	38	.17
OH or Other	1,730	3,570	897	2,673	1,408	53	2.45	47	2.17
Aphasic	320	6,087	849	5,178	2,965	57	.94	43	.71
Deaf-Blind	21	9,215	845	8,370	5,862	70	.12	30	.05
Multi-Handicapped	150	5,388	860	4,528	2,914	64	.43	36	.25
Special Day Classes in Regular Schools									
Hearing	427	$ 3,097	$ 884	$ 2,213	$ 2,342	100%	$ .94	00%	$ -
Vision	236	2,883	913	1,970	1,593	81	.38	19	.08
Services to Handicapped Children Enrolled in Regular Classes									
Physically Handicapped	900	$ 850		$ 850	$ 1,018	100%	$ .77	00%	$ -
Remedial PE	3,650	1 371		1,571	775	57	2.85	43	2.15
Speech	16,500	195		195	90	46	1.48	54	1.74
Home-Teleclass	3,850	144	41	103	59	57	.23	43	.17
RETARDED									
EMR Special Day Classes	4,600	$ 2,083	$ 899	$ 1,184	$ 375	32%	$1.74	68%	$3.70
TMR Special Day Classes	1,611	3,685	964	2,721	1,332	49	2.15	51	2.23
EDUCATIONALLY HANDICAPPED									
EH Special Day Classes	3,200	$ 3,987	$ 865	$ 3,122	$ 966	32%	$3.20	68%	$6.79
Learning Disability Groups	1,800	3,516	889	2,627	1,880	72	3.40	28%	1.32
							$22.65		$22.11

SUMMARY INFORMATION (Estimated 1974-75) *
Total Children Served: 39,578
(Schools, Classes and Programs:
14,678 full-time handicapped students
24,900 handicapped students in regular classes)

Total excess cost dollars expended: $44,760,000
(51 percent State Support; 49 percent District Support.
Estimates do not include Capital Outlay Expenditures or $260,000 of
EHA Title VI-B funds)

* The Summary does not include data for Development Centers for Handicapped Minors (profoundly retarded); Pregnant Minor programs or Mentally Gifted Minors activities.

Attachment B

SAN DIEGO CITY SCHOOLS
San Diego, California

SUMMARIES OF COSTS OF SPECIAL EDUCATION PROGRAMS

Program	District Contribution Percentage Percent of Non-Categorical District Contribution	State Contribution Mean Special Apportionment Funding Per A.D.A. Unit	100% Excess Cost Per Pupil Apportionment Funding Per A.D.A. Units to Cover Excess Costs
Educationally Handicapped	25%	1,485	2,136
Educable Mentally Retarded	44%	481	1,356
Aphasic	Adequate		
Speech and Hearing	52%	2,157	4,519
Visual (SDC)	Adequate		
Visual (RFO)	53%	2,150	4,534
Orthopedically Handi.(SDC)	42%	1,014	2,209
Pregnant Minors	24%	715	1,170
Homebound	61%	1,795	5,719
Hearing (SDC)	15%	2,619	3,210
Deaf-Blind (SDC)	34%	2,675	4,383
Trainable Mentally Retarded	37%	928	1,831
Transportation of Handicapped	42%	389	673

ATTACHMENT C

LOS ANGELES UNIFIED SCHOOL DISTRICT
Special Education Division

April, 1975

CURRENT EHA TITLE VIB PROJECTS SERVING DISTRICT CHILDREN

Project Title: Speech Resource Specialist Program

Service to Children: Serves 1400 speech and language handicapped children

Activities: Establishment of Speech Resources rooms and implementation of a specialized language curriculum in four regular schools.

Funds: $70,914

Project Title: Instructional Delivery System: Trainable Retarded

Service to Children: Serves 84 Trainable Retarded children in special school.

Activities: Train teachers and special education aides to conduct the instructional program in an experimental situation. The use of more aides and fewer teachers than in the conventional setting is proposed.

Funds: $51,599

Project Title: Supportive Personnel: Speech and Language Program - State Dissemination Project

Service to Children: Serves schools with Speech Aide Program (regular)

Activities: Train paraprofessionals and volunteers to work with speech handicapped children under the direction and supervision of speech teacher specialists.

Funds: $60,290

Project Title: Valid Assessment Inventories for Handicapped

Service to Children: Will serve all categories of handicapped.

Activities: The project objective is to validate existing assessment inventories in language, reading, and mathematics by establishing congruence between items of the inventories and the developmentally sequenced instructional objectives they are designed to measure. Congruency shall exist when it has been determined that inventory items actually measure the skills designed by the instructional objectives.

Funds: $76,750

Testimony to the Sub-Committee On the Handicapped of the U.S. Senate Committee On Labor and Public Welfare

Mr. Chairman, honorable members of the Sub-Committee on the Handicapped, and committee staff, my name is Larry Harris and I am Special Assistant to the Superintendent of Schools for the Minneapolis, Minnesota Public Schools, Dr. John B. Davis, Jr. I am honored to be able to present, on behalf of Superintendent Davis, the Board of Education, and our Director of Special Education, Dr. Richard Johnson, testimony on several proposed bills related to education of the handicapped. Specifically, I would like to comment on Senate file #6, Senate file #12-56 and Senate file #12-84 On behalf of the Minneapolis Public Schools, I wish to commend and applaude these efforts to improve programs for handicapped children and youth by seeking more definitive, affirmative, and more well financed federal legislation. We support the philosophy and principles enunciated in the recently enacted public law 93-380, and currently reflected in S-6. The goals of providing full service to all handicapped, of providing procedural safeguards related to due process, to culture fair testing and testing procedures, and to the doctrine of least restrictive alternatives. Inclusion of these doctrines and rights in subsequent federal legislation will do much to assure the rights of handicapped youth in our educational systems.

In the area of education of the handicapped, know that the Minneapolis Public Schools, as one major school system attempting to conduct relevent and comprehensive special education programs for all handicapped youth, clearly supports the need for comprehensive federal legislation. Federal legislation which, we hope, will receive the attention, deliberation, and eventual support of consumers, professionals, and legislators. There is, in our opinion, a critical need for additional funds to provide needed programs for handicapped children and youth in our public schools. While the responsibility for providing those necessary funds is not basically a federal role, and while both local and state education agencies will need in this and in future years to continue increasing levels of support for the handicapped, the education of handicapped children and youth is a critical national problem, and is a very expensive problem for local citizens to cope with. Therefore, we believe that a major financial contribution is needed from the federal government, and therefore support the general principle that 75% of excess costs of educating the handicapped be supported by the federal government.

While, in our opinion, there is a nation-wide need for additional funds to aid in education of the handicapped, the need in the central cities of our nation is especially critical. "The combination of several factors, including the problem of municipal over burden; the presence in central cities of large numbers of social service and other treatment oriented child and adult serving agencies; the fact that the trend to return handicapped persons from institutions to their communities is impacting in heavier fashion upon the cities than other areas; the economic burden imposed upon city boards of education by providing educational services to the recent proliferation of halfway houses, group homes, and foster care facilities; the diverse nature of the multi-ethnic population base in the cities; the high transiency rate; the fact that cities in many cases, being the first to develop programs for the severely handicapped, have attracted an over burden of handicapped youth attracted by availability of programs; the need to provide a rather intensive and expensive social work and school related family support system for innercity families; and the clear relationship between socioeconomic deprivation and school performance, and the presence of various learning, emotional, and physical disabilities are all well known. At the same time central cities are losing overall student population (with a concurrent decrease in state foundation aid), special education population in cities has been increasing. For example, in the past several years Minneapolis has lost some 10,000 regular students, while at the same time the population identified and served as handicapped within the school system has risen in the same time period from an annual cumulative total of approximately 4,000 to approximately 10,000 for 1974-75.

These factors not only represent need for additional services in central city school systems, but also represent increasing complexity in delivering those services. Both the need for increased service to handicapped youth, and the increased complexity of providing that service (given recent court decision and other philosophical directions) cost additional money. Therefore, we who strive in central cities to provide adequate and appropriate educational opportunities for all handicapped youth are extremely sensitive to the need for additional resources. Thus, we feel that the role of the federal government in supporting programs for the handicapped must increase.

If I might at this time, Mr. Chairman, make some specific comments and recommendations regarding Senate file #6, "The Education for All Handicapped Children Act". In making these comments and suggestions, Mr. Chairman, I recognize the fact that you and the members of your sub-committee may have already heard from others on several of these points and issues, and I will try to be brief.

1. One of the great problems school districts have with most federal aid to education is the clear disparity between the amount of dollars authorized by a particular piece of legislation and the number of dollars actually appropriated and approved. To my knowledge

there have been few bills related to education in this country that have been funded anywhere near the "authorized" level. This is distressing enough in most matters, and is especially distressing as one looks at programs for education of the handicapped in our country. The history of federal aid to support education of the handicapped in this respect has not been very exemplary. Sizeable funding resources have been authorized in the past to support education of the handicapped, but the appropriations have never lived up to the expectations created by legislative authorization.

In our opinion, it would be another cruel hoax if the Congress passed a piece of legislation which was based on supporting 75% of the excess costs of providing appropriate educational opportunity to the handicapped, but was actually funded at a much lower level. If it appears that this is likely to happen in this instance, we would have to categorically state that few of the city school systems of our country (as one group of schools) would support S.6. State education agencies, local education agencies, state legislators, and, most of all, our parents and our handicapped children must not be led to expect great support for their efforts from the Congress only to find out that there are in actuality few resources provided to carry out the intent of the law.

To date, federal aid for education of the handicapped has represented a very small share of the total cost. For example, in 1973-1974, Minnesota expended approximately $75,000,000 in local and state funds for education of the handicapped. Federal Title VI-B funds for Minnesota represented 1.6% of the total expenditures. In 1974-75, Title VI-B funds represented 2.3% of the total. We speak to Title VI-B funds here but realize that there are limited set asides in other legislation such as Title III ESEA and Voc. Educ.

2. We know the controversy that has in past testimony existed over the language of S-6 with regard to entitlement. While we do not at this time have specific language or suggestions to offer, we respectfully suggest that the entitlement section must reflect several considerations. These are:

    a. Whatever entitlement system is used, that entitlement system should be one which will make use of that data currently most readily available in most of the states. That is, any entitlement system should be matched against the criteria of minimizing both the expense and the cumbersomeness of data collection systems. The language in the current bill does not seem to require an excessively cumbersome or expensive system, but more analysis, on a state by state basis may need to be made before that fact would be documented.

b. The computation of average cost differential between the handicapped and the non-handicapped should be organized so that there is no built-in incentive for states or districts that have a higher than necessary proportion of their students in special high cost settings, and, conversely, no built in deterrents for states or L.E.A.s that have been able to maintain children in regular classrooms, generally at a lower cost. That is, the entitlement language should reinforce the intent of the doctrine of least restrictive alternatives cited elsewhere in this proposed legislation.

c. The entitlement language, either in legislation or in future U.S.O.E. regulations, must at all costs avoid entitlement systems which stimulate districts to either label children excessively, or which require assignment of weights on a disability category basis. Minneapolis and several other cities are attempting to avoid use of pernicious labels and arbitrary categorical classification systems in providing quality education to the handicapped, and we are unalterably opposed to any funding approach - local, state, or federal - which requires or stimulates excessive labeling and identification of handicapped persons at the local level.

3. This bill provides that there will be for every handicapped child served by the public schools a written individualized plan and the specifics of that plan are detailed. The development of individual written plans for every handicapped child receiving some type of special instruction and service is indeed a laudible goal, and most of us in the schools are seeking this goal through the implementation of systems referred to as diagnostic prescriptive processes, pupil progress management systems and other terms.

This goal, however, is exceedingly difficult to obtain for most systems, Minneapolis included. Minneapolis, as one school system, has been working quite diligently to reach this goal for the past two years, and we anticipate that we will, at least in Minneapolis, achieve this goal within the next two years. This is not a small task, as the cumulative total number of handicapped students served by Minneapolis Special Education Services in any one year is approximately 10,000 students. In addition, plans for many of these students may change several times during any given school year, thus necessitating re-negotiated and re-written plans.

The implications of such a requirement, applied uniformally and required to be implemented over a short period of time, are staggering in terms of the implications for (1) additional training required to orient special and regular faculty in the technology and processes necessary to develop prescriptively oriented plans, (2) the additional teacher and clerical time necessary to translate these goals into records, files, and into correspondence, and (3) the reduction of the number of students that any given teacher or professional is able to provide direct service to because of the time demands of the individualization process. We do not by these comments decry the requirement for individual written plans. We raise these points only to note that if such a requirement is applied (and if no more than the next year or two is given to states and to school districts as implementation time for developing the necessary training, the necessary processes, and the necessary procedures), that regardless of whether or not the "law" says that it shall be done, it will clearly not happen.

Minneapolis has developed for at least half of the students currently enrolled individual written plans with most of the ingredients specified in the proposed S-6, and has a defined diagnostic prescriptive process and procedures for faculty to follow. We have also engaged in a great number of training sessions for many of our specialized faculty over the past several months and years. In this sense, then, given additional federal resources for intensified training and for technical assistance persons, we would be able to within the next two years have a 100% operational system of developing, maintaining, and evaluating individual written plans.

However, there are thousands of school systems, among them many of our sister cities, which have not to date begun intensively to work toward individual written plans as described in S-6. Clearly, it is our belief that all districts need to move toward this goal, but that federal legislation should reflect realistic time-lines. In this respect we recommend that no arbitrary time-lines either in the language of S-6 or in subsequent U.S.O.E. regulations be mandated at this time, but that L.E.A.s be required to submit to states reasonable and appropriate plans for accomplishing this goal.

One more point related to this goal of developing individual written plans is important to us. We support entirely the notion that one must have such plans in writing, and that one must seek parent and school consensus on specific treatments and interventions. To the end that the practice of developing individual written plans is able to add to the quality and substance of an individual handicapped child's educational program, we support the requirement for these plans. However, if either state or federal agencies require the reporting of these plans, or require the reporting by L.E.A. of "outcome" data on a more comprehensive basis than would be required by occasional externally conducted sampling studies for evaluation purposes, we feel that the requirements would be unworkable in terms of the excess burden placed on the local education agencies.

For example, one wonders what either the state education agency or the U.S. Office of Education would do with tens of thousands of plans, or with outcome data generated from individual objectives representing several hundred different functional categories of behaviors or performance? Again, we support this requirement as a positive step to improved clinical practice, and to improved communications with parents and students. We do not, however, think the requirement is workable if the timeline for implementation is not realistic or if there is a uniform reporting requirement to super ordinate agencies.

4. With regard to section 613-5, I respectfully suggest a modification of the language to reflect not only the emphasis on "due process hearings" but also to reflect the doctrine of "informed parent consent". The language currently used in S-6 seems to imply the need for a full due process hearing in every placement matter. Due process hearings are not only costly, they tend to be adversary proceedings and should be avoided wherever possible by obtaining informed parent consent. We respectfully suggest this concept be incorporated into the language in section 613-5.

5. In section 614-4 (B), the language regarding placement in private schools for purposes of meeting public mandates does not seem to be entirely clear. It does not seem to be clear that the intent is to pay the costs of private school attendence by handicapped youth in instances where the S.E.A. or L.E.A. has determined that a particular private school resource is the most appropriate resource to meet a full service mandate for any individual student. In other words, the question of "who" makes the placement or referral to such schools or facilities seems to be left open ended in the current language. We respectfully recommend that this be modified to reflect the fact that school officials must place in or formally refer to such

schools or facilities.

6. I wish to make a point about the distribution of funds to schools systems and particularly to cities. Currently allocation systems based on a project application and subsequent authorization of projects by state education agencies generally have resulted in central cities receiving less than one would expect based on size of both regular and special population.

   As one example, the Minneapolis Public Schools serve 6.9% of the state's overall student population. For the school year, Minneapolis received approximately 3% of the total Title VI-B funds available to the state. In 1974-75 Minneapolis received approximately 7.5% of the available Title VI-B funds. If, however, one looks at the percent of handicapped children in the whole state which are served by Minneapolis, one would see that in 1972-73 the Minneapolis Public Schools served (exclusive of speech therapy services) 20% of the state's handicapped children. Minneapolis served 35% of the state's hearing handicapped students, 28% of the multiply handicapped students and 21% of the learning disabled and socially maladjusted students.

   In this respect then, the figures of 3% of total available Title VI-B funds for 1973-74 and 7.5% for 1974-75 reflect the fact that at least this city school system did not receive Title VI-B funds anywhere near the proportion of the state's handicapped children actually served. In reality, the project application and approval on a competetive basis method currently used to allocate Title VI-B funds has, in past history in many states, resulted in a dispersal of funds as much as on a geographic as on a competetive basis. In this respect, we respectfully recommend that some significant portion of the total available entitlement for a given state be specifically distributed to districts on the basis of the relative numbers of handicapped children served by that district the previous year, and the remainder be used for projects awarded on a competetive state-wide project application basis. We assume that each district's entitlement would have to be also authorized on a project basis to ensure appropriate utilization of the "pass-through" monies, but feel that this approach would correct inequities (which generally fall hardest upon the central cities where the burden is in a sense the greatest) which seem to have occurred with the awarding of Title VI-B grants on a strictly competetive basis.

These, Mr. Chairman, are our specific comments on S-6, the "Education for all Handicapped Children Act", and we urge your consideration of any of these comments or recommendations you and your sub-committee members deem worthy of further study. We understand and know how difficult it is to develop a comprehensive piece of legislation such as this one, and recognize that efforts to reach consumer, professional, and political consensus may continue to be time consuming. In this respect, may I urge, on behalf of the Minneapolis Public Schools, that either Senate file #12-56 or Senate file #12-64 be enacted as a means of insuring continuing support for education of the handicapped during the time S-6 is being deliberated and/or to allow S.E.A.s or L.E.A.s adequate time to prepare for administration and implementation of S-6 in the event it is passed by Congress in the immediate future.

In summary, may I once again offer our firm support for additional federal funding for the education of the handicapped, and specifically for the notion that 75% of excess costs of conducting such programs will be supported by the federal government. As I have indicated, we support the notion of developing a comprehensive piece of legislation such as S-6 appears to be and offer to you our suggestions, recommendations, and concerns related to the aspects of entitlement language, within-state distribution of available funds, time-line and reporting considerations relating to the individual written plans requirement, and other points.

As one final point, I would like to offer the continued advice and resources of the Minneapolis Public Schools as the sub-committee continues to deliberate appropriate federal legislation for support of legislation for the handicapped. The Minneapolis Public Schools have had considerable experience in providing full services, a full range of options in accord with the doctrine of least restrictive alternatives, a defined diagnostic prescriptive process and a strong sense of professional and community support. I know that Dr. Johnson and members of his staff, as well as others of our school system will be most happy to cooperate by offering information, data, or advice as you might deem appropriate. In closing, may I once again thank you for the opportunity to testify on this matter.

Senator RANDOLPH. We will stand in recess until 10 o'clock tomorrow morning.

[Whereupon, at 12:35 p.m., the subcommittee recessed, to reconvene at 10 a.m., Wednesday, April 9, 1975.]

EDUCATION FOR ALL HANDICAPPED CHILDREN, 1975

WEDNESDAY, APRIL 9, 1975

U.S. Senate,
Subcommittee on the Handicapped
of the Senate Committee on Labor and Public Welfare,
Washington, D.C.

The subcommittee met at 10:10 a.m., pursuant to recess, in room 4200, Dirksen Senate Office Building, Senator Jennings Randolph (chairman of the subcommittee) presiding.

Present: Senators Randolph and Beall.

Committee staff present: Patria Forsythe, professional staff member; Jackson M. Andrews, minority counsel; Lisa Walker, and Clare Comiskey, professional staff members.

Senator Randolph. I am delighted that Senator Mathias, Lieutenant Governor Lee, and Dr. Bell will testify on the second day of our subcommittee hearings on legislation for equal educational opportunities for handicapped children. We had an excellent discussion yesterday. We shall have Senator Charles Mathias as our first witness today.

Senator Mathias. Mr. Chairman, it might serve the convenience of the committee if we had the whole Maryland team come up and then we could move very quickly.

Lieutenant Governor Lee is here and we have Mr. Richard Schifter, the vice president of the Maryland State Board of Education, Dr. Frank McIntyre, the assistant State superintendent for the division of special education and Mr. Stan Mopsik, director of the office of special educational programs.

Senator Beall, who I have just passed in the hall, Mr. Chairman, has indicated that he will join us in just a few minutes.

I am very proud of this Maryland team, Mr. Chairman.

Senator Randolph. We value Senator Beall's work on the subcommittee and also on the full Labor and Public Welfare Committee.

STATEMENT OF HON. CHARLES McC. MATHIAS, JR., A U.S. SENATOR FROM THE STATE OF MARYLAND

Senator Mathias. Mr. Chairman, I must say that I approach this committee on the subject of providing greater opportunities to handicapped children with a degree of humility because the chairman's work has been so well known for so many years. Indeed, Senator Randolph's name is synonymous with Federal programs for the handicapped. So I feel that we are preaching to the converted when we come to this committee to talk on this subject.

However, we are at another one of the watershed points at which we need action. I think back to about a year ago in which Senator Randolph was of such single help in working with the members of this subcommittee for education for handicapped legislation; legislation which was finally enacted into law and which served tremendously as the basis for further consideration by this subcommittee today.

That is why I am pleased to have these distinguished members of the Maryland educational team here. Lieutenant Governor Lee, who I am sure the chairman already knows, is here in his own right and also representing the Governor of Maryland. Mr. Richard Schifter, a distinguished lawyer and vice president of the Maryland State Board of Education, is here. Dr. Sensenbaugh, who is the superintendent of schools for the State, Dr. Frank McIntyre, assistant State superintendent for the Division of Special Education, and Mr. Stan Mopsik, director of Special Educational Programs, are also here.

I think these gentlemen will explain in some detail the issues confronting Maryland, as a typical State, not problems unique to Maryland, but problems which are typical for those of the whole country.

Although I am the author of one of the bills pending, S. 1256, which extends the so-called Mathias funding formula for 1 year through fiscal 1976, I would like to make it clear at the very outset that I, notwithstanding my own bill, unhesitantly endorse the other pending bill sponsored by the chairman of this committee, Senator Randolph, and others which would extend the so-called Mathias formula for an additional 2 years beyond the end of this fiscal year.

I think this subcommittee is faced with a challenge and an opportunity to view the pending proposals, the S. 1256, which I introduced with Senator Stafford and Senator Beall, and the S. 1264, introduced by the chairman, and report a bill to the Senate to continue the commitment we made last year.

The significant feature of last year's action. I think, was congressional recognition of the absolute need for the Federal Government to substantially increase its level of financial assistance to the States. By failing to extend the provision this Congress would, in effect, be saying to the States and to the handicapped children and their parents that we, in effect, step backward, that we withdraw that commitment.

If we do not extend a new funding formula, assistance to State programs will revert to the earlier established amount of $100 million for fiscal year 1976 and $110 million for fiscal year 1977.

Very simply stated, failure to extend the formula will result in a $565 million reduction in the authorization for this fiscal year 1976. Both the chairman's bill and the bill that Senator Beall and Senator Stafford and I have introduced would avoid that truly tragic outcome.

In reviewing some of the statements which were presented before this subcommittee yesterday, it would appear as though the overwhelming weight of the evidence is in favor of the thrust of these bills. I noticed that several witnesses proposed a number of very useful suggestions concerning the manner in which the States might implement last year's provisions, particularly the comments of Dr. Enid Wolf of the District of Columbia Public Schools Division.

Her remarks, I would say, echo some of the comments that you may have heard and that I have heard during the past year, and that you may hear today from some of the Maryland educators about the priorities established in last year's legislation.

While I would not recommend that the Congress lessen its desire to assist the States in the development of the programs to identify and treat handicapped children at the preschool level—for without any doubt, this is the stage where problems can be identified and hopefully corrected—Dr. Wolf's suggestion that we allow the States to use the State grant program to stress service to "those school age children who are totally out of school and not enrolled in any special program and those enrolled school age children who are receiving only part-time or grossly inadequate service with priority being the profound, severe and multihandicapped children," is a very important statement. I hope that it is seriously considered by this committee.

Mr. Chairman, to further conserve time I would submit the balance of my statement, together with the letter I received from Ralph J. Moore, Esq., in support of this bill.

Prepared Statement of Charles McC. Mathias, Jr., a U.S. Senator From the State of Maryland

Senator Mathias. Mr. Chairman, I appreciate this opportunity to appear before the Subcommittee on the Handicapped. My pleasure is threefold. First of all, the chairman of the subcommittee, Senator Randolph, the ranking Republican, Senator Stafford, the chairman of the full committee, Senator Williams, and the ranking Republican on the Education Committee, my Maryland colleague Senator Beall, indeed all members of this subcommittee are widely respected and recognized for the support you have provided in behalf of this Nation's handicapped citizens. It was nearly 1 year ago that I had the pleasure of working with members of this subcommittee on education for the handicapped legislation that I sponsored; legislation which was finally enacted into law and which now serves as a basis for further consideration by this subcommittee today

Second, it is an honor for me to introduce to the members of this subcommittee four leading officials in Maryland public life: Our Lieutenant Governor, Hon. Blair Lee who today represents the Governor of Maryland, and three outstanding representatives of the Maryland State Department of Education, Mr. Richard Schifter, vice president of the Maryland State Board of Education, Dr. Frank McIntyre, assistant State superintendent for the Division of Special Education, and Mr. Stan Mopsik, director of the Office of Special Educational Programs. These gentlemen will provide you with testimony concerning the issues confronting my State in terms of providing educational opportunities for handicapped children. They will also discuss the important role which the Congress can perform in assisting not only Maryland, but all the States in meeting their responsibilities for hundreds of thousands of handicapped children across America.

Third. I am pleased to offer testimony on behalf of legislation pending before this subcommittee today. My testimony this morning will be somewhat unique. Although I am the author of one of the bills pending, S. 1256, which extends the so-called Mathias funding formula contained in Public Law 93–380 for 1 year through fiscal year 1976, I unhesitatingly and enthusiastically endorse the other pending bill, S. 1264, sponsored by Chairman Randolph and others which extend the so-called Mathias funding formula for 2 additional years beyond June 30, 1975.

This subcommittee is faced with both a challenge and an opportunity to carefully review the pending proposals, S. 1256, which I introduced with Senators Stafford and Beall, S. 1264, introduced by Senator Randolph, and to report a bill to the Senate, hopefully before June 30, 1975, which will enable the Congress to continue the commitment we made last year to assist our States reach the goal of full educational opportunity for all handicapped children.

As this subcommittee knows, the Mathias amendment in Public Law 93–380, the Education Amendments of 1974, established a funding system based on entitlements which authorized approximately $665 million in financial assistance to the States for expanding, initiating, and improving programs and projects for the education of handicapped children at preschool, elementary, and secondary school levels for fiscal year 1975. While the Congress failed to appropriate fully the amount of funds authorized in Public Law 93–380, we did provide the States with an additional appropriation of $52 million for this fiscal year and $50 million for fiscal year 1976.

The significant feature in last year's action with respect to Public Law 93–380, however, was congressional recognition of the absolute need for the Federal Government to substantially increase its level of financial assistance to the States. By failing to extend the provision we enacted last year, this Congress, in effect, will be saying to the States, and to handicapped children and their parents that, "we withdraw our commitment." If we do not extend the new funding formula, the assistance to the States programs will revert to the earlier established authorization ceilings of $100 million for fiscal 1976 and $110 million for fiscal 1977. Simply stated, failure to extend the funding formula will result in a $565 million reduction in the authorization level from this fiscal year to fiscal 1976. Both the chairman's bill and the bill I have introduced will avoid that outcome.

In reviewing the written statements presented by the witnesses who appeared before this subcommittee yesterday, it would appear as though a substantial number support the purposes of S. 1256 and S. 1264. I noticed also that several witnesses proposed a number of very useful suggestions concerning the manner in which the States might implement last year's provisions, particularly the priorities for service we mandated. I found the comments of Dr. Enid Wolf of the District of Columbia Public Schools Division of Services for the Handicapped particularly constructive. Her remarks, I might add, echo some of the comments I have heard from Maryland educators about the priorities in last year's legislation. While I would not recommend that the Congress lessen its desire to assist the States in the development of programs to identify and treat handicapped children at the preschool level (for without any doubt, this is the stage where problems can be caught and often corrected), Dr. Wolf's suggestion that we allow the States to use the State grant program to stress service to "those school age children . . . who are totally out of school and not enrolled in any special program and . . . those enrolled school age children who are receiving only part-time and/or grossly inadequate service with priority being profound, severe and multi-handicapped children" is very important and should be seriously considered by this subcommittee.

The concept of equality of educational opportunity is widely accepted by the citizens of this Nation. When, however, we apply that concept to handicapped children, it is clear that our country is a long way from achieving what we profess to believe. The bills before this subcommittee both represent important additional steps which the Congress should take toward assisting States achieve equality of educational opportunity for 7 million handicapped children in America.

[The letter referred to follows:]

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* ON LEAVE OF ABSENCE

APR 2 11 10 AM '75

April 1, 1975

The Honorable Charles McC. Mathias
Room 460
The Old Senate Office Building
Washington, D. C. 20510

Dear Senator Mathias:

I strongly support your bill, S. 1256, to extend the Mathias amendment. As I mentioned in my letter to you last year at the time the Mathias amendment was enacted, I was one of the attorneys for the plaintiffs in the Maryland right-to-education suit. Increased federal participation in the development of educational programs for handicapped children is absolutely essential to end the neglect that has existed for so long.

I do hope it will be possible to increase the appropriation this year.

Very truly yours,

Ralph J Moore Jr

Ralph J. Moore, Jr.

RJM:am

Senator RANDOLPH. Thank you very much, Senator Mathias. We know of the intense interest and the positive action that you and your able colleague, Senator Beall, have brought to bear on the emergency situation, which was what your action passed in the Senate and brought into law addressed itself to at an earlier period. We are now, of course, moving toward that time when we can have adequate law on the books, as the expression of the Congress, to be implemented by all the States.

We want every handicapped child to be given an equal educational opportunity. If given an equal educational opportunity, these children will become a substantial and contributing part of our society. So we direct our attention, all of us, to this challenge.

Senator Beall, I know that you will want to add opening remarks for the record.

STATEMENT OF SENATOR J. GLENN BEALL, JR.

Senator BEALL. Thank you, Mr. Chairman. I do have a prepared statement I would like to have included in the record at this point.

As a member of the Subcommittee on the Handicapped and the ranking minority member of the Subcommittee on Education, it is indeed a pleasure to welcome the witnesses who appear from my home State of Maryland on behalf of educating our handicapped children.

Today is an important day in Maryland's program to educate the handicapped. It was this very day last year that the circuit court for Baltimore County, Md., decreed that "it is the established policy of the State of Maryland to provide a free education to all persons between the ages of 5 and 20 years, and this includes children with handicaps, and particularly mentally retarded children, regardless of how severely and profoundly retarded they may be." Although Maryland is not alone in establishing requirements to provide this access to free education, the State is all too aware of the impossibility of completely financing this special education, particularly with existing strains on an already tight State budget.

With this in mind, I commend my distinguished colleague from Maryland, Senator Mathias, for his amendment to the Elementary and Secondary Education Act, providing a formula for Federal grants to the States and localities for educating the handicapped. It was indeed a pleasure to cosponsor this amendment last year, and to again join as a cosponsor of the extension of this measure which is before us now.

In considering the legislation before this subcommittee, it is important that we be particularly attentive to the evidence from the State of Maryland and other States. Testimony will indicate what the funding formula has meant to the States in their efforts to comply with court orders and to follow the dictates of society itself, as we become more aware of the fact that the problems of the handicapped children have been inadequately addressed. Even in my own State, where the department of education has made considerable efforts to serve the entire population of handicapped children, barriers exist, both financial and social, that prevent total service from becoming a reality. In actuality, only 60 percent of the handicapped children in Maryland are adequately served at this time.

Some of the underserved or unserved handicapped population must still rely on private financing for educational expenses. Recognizing this fact, I am introducing a bill, as an interim measure, that will permit a taxpayer to deduct certain expenses paid by him or her for special education of minor dependents afflicted with physical or mental handicaps.

INCREASING TRANSPORTATION COSTS

In addition, I would like to take this opportunity to focus attention on a potentially dangerous side effect of the current energy situation in providing for the education of the handicapped. I have recently met with several Maryland nonprofit educational organizations who are already experiencing severe financial strains as a result of inflation and high energy costs. For example, the United Cerebral Palsy Organization experienced a cost of about $73.26 per child served last year for transportation alone. If the price of gasoline goes to 80 cents per gallon, these costs would rise to $117.21 per child. Thus, the funds needed for education of the handicapped would have to be diverted to pay for the higher transportation costs. Since the current law provides for the use of special schools where no adequate programs exist in the public school system, this could have a disastrous impact on the efforts to educate our handicapped children. I have called upon the President, Senate Finance Committee Chairman Russell B. Long, and House Ways and Means Committee Chairman Al Ullman, asking that they consider providing amendments for fuel cost relief for nonprofit educational organizations. This is certainly not the time to inhibit the contributions these organizations can make to the education of the handicapped.

Although none of the legislation before this committee today is totally new, the concept of providing excess costs for educating the handicapped is one that mandates the most careful evaluation possible. At the same time, the issue before us of providing access to free education for all handicapped children demands the most expedient action possible. The information we obtain today, with some experience of Federal excess cost behind us, will make a significant contribution in shaping the legislation which is pending before this committee this year.

Senator BEALL. To save time, let me just say, Mr. Chairman, that first of all I am happy to welcome our fellow Marylanders here this morning. You are looking at a very distinguished group of representatives of the State government and of the educational community in the State of Maryland. We are proud of the fact that through the years our State has been a leader in adding greater degrees of creativity to the educational process in opening up new opportunities for children to receive a better opportunity for better education.

I had the pleasure to serve with Governor Lee a few years ago. He has long been a leader in the State of Maryland. It is to his credit that we have the forward looking sytem that we have today.

Let me say to the people at the table they are indeed fortunate today. I know of no one more sensitive to the needs of the handicapped children and adults than is Senator Randolph of West Virginia. There is legislation spread out on the law books of this country that bears his stamp on it. It is because of his efforts that we have improved opportunities for the handicapped today.

The problems of the handicapped, however, are multiplying as time goes on. I hope as a result of the testimony here today that the committee will have a good idea of what is taking place in Maryland, and have some good suggestions to make for things to be done at the Federal level to alleviate some of these problems.

I am happy to join with those at the table in asking the committee to lend a sympathetic ear and to expeditiously bring forth legislation.

Having said that let me apologize for having been late because I had to go to the Appropriations Committee. And I must leave because I have to go to the Budget Committee where we are trying to keep the deficit from increasing. We have a deadline to present to the Congress our suggestions for the total budget.

I am sure you all recognize how important that is. As I said, you are in good hands because the distinguished chairman of this subcommittee is unequaled in his desire to do good for the handicapped.

Senator RANDOLPH. Thank you very much, Senator Beall. It was my good fortune to serve with your father in both the House of Representatives and the U.S. Senate. He addressed himself in those years to these problems which we are considering today and tried to bring equity to handicapped children in our educational process.

We are delighted, of course, with your advocacy of not only this particular bill which you are cosponsoring with Senator Mathias and Senator Stafford, but also with your attention to the problems concerned with adequate schooling for these handicapped children. I would want to interrupt the witnesses to present a group who are special guests. All of you are special, of course. But when anyone is from West Virginia, they are especially special. We had a group of students here yesterday from middle Tennessee, and I had the opportunity of having those young people presented. One of the young people present today will introduce the group very quickly, will tell us why they are here and what their organization is.

Mark, please stand and give your name and tell us about your group.

FROM THE FLOOR. Thank you, sir. We are with the National Explorers President's Congress. We are here to elect new officers for this year. There are about 2,100 of us here this week. Our purpose in exploring is to better understand and explore new career opportunities.

Our group is from West Virginia. We are from the east central region of West Virginia. We are very honored to be here today.

Senator RANDOLPH. You are interested in career education. Thank you, Mark, very much.

Governor, are you prepared to follow at this point and to give us your testimony?

STATEMENT OF HON. BLAIR LEE III, LIEUTENANT GOVERNOR OF THE STATE OF MARYLAND

Mr. LEE. Thank you, Senator. I am as well prepared now as I ever will be. I do apologize for not coming before you with a printed statement. But our general assembly adjourned some 34 hours ago and we are still staggering around and licking our wounds and trying to pull ourselves together.

I should explain possibly why I come before you as a Lieutenant Governor of a State. The office of Lieutenant Governor varies remarkably from State to State. In the State of Maryland, the constitution provides that the duties of the Lieutenant Governor shall be as delegated by the Governor, just that and nothing more.

The Governor of Maryland, has delegated to me over the last 5 or 6 years, the job of scrutinizing the State budget each year as it heads into the general assembly.

It is, of course, the Governor's budget. It is presented in his name. It is worked up by all of the departments of the State government, reviewed by the State Budget Department. Then it has to have a final examination by the executive office itself. There is so much detail and volume in that work that it is quite impossible for any Governor to do more than make the very big difficult decisions. The nuts and bolts review has to be done by somebody else. I am the one he has picked for that particular work.

Consequently, each year from about mid-October to mid-December, I see pass before my eyes the entire vast array of Federal categorical grants in aid to the States of this country.

One day it will be the health department budget with all the Partnership in Health grants, and another day it will be clean air or clean water or safe streets or elementary-secondary education or whatever.

One gets a fairly good working knowledge of the whole picture. They are all helpful, obviously. Some are more important than others. In the last couple of years I have come to the conclusion that there is probably no Federal grant to the States carrying a greater urgency or immediacy than the one that we are talking about this morning, the Federal aid for the education of handicapped youngsters.

Senator RANDOLPH. There are about 7 million of them in the United States.

Mr. LEE. And it is a very big difficult problem in terms of education and in terms of State and local budgets. I think it is fair to say that this is a problem that has been around for a great many years. But it has been in the shadows. It has been swept under the rug. It has been anywhere except out front and center, which is where it should be. In the last 4 or 5 years it *has* been front and center. There have been a series of court decisions, including the one in Maryland, that Senator Beall mentioned a few minutes ago, that have brought it front and center.

The decision, the so-called Raine decree, was a circuit court decision. The State might have chosen to appeal it and possibly could have had a successful appeal. We didn't feel like appealing it. It was an area where we felt an obligation to do with it what the court thought we should do. But the cost of it is enormous.

The State of Maryland, in its annual operating budget, in the budget of the State Department of Education, has had an item for the education of handicapped children for many years. In fiscal year 1966, our State budgeted item in this area was slightly over $2 million. In fiscal 1976, the year that begins next July 1, that amount will have gone from $2 million to almost $44 million.

This is a geometric progression that State governments simply cannot afford. If this happened to us in all of the segments of our State budget, we would be bankrupt right now. This thing is just flowering into something. It is an area where we need help more than I think any other area in the entire range of Federal categorical grants.

Senator RANDOLPH. You are saying, Governor, that the State does not want to withdraw its support; however, Federal aid is necessary for the continued success of educational programs for handicapped children. Is that correct?

Mr. LEE. That is absolutely correct, Senator. When you get down to it, it ends up being a three party operation. In many ways the primary legal burden rests on the localities, on the local school districts.

The money that is carried in the State budget is in the form of State aid to the school districts. We are doing the best we can. We are literally galloping ahead in trying to help the school districts. But their needs are galloping faster than we can gallop.

We really have a desperate and immediate need for help from the Federal Government.

When you get down to specific bills, I would not presume to offer advice as between the two bills that would extend the Mathias amendment. Whether it should go for 1 year or 2 years is a matter for you to decide. It is not for us to decide.

Senator RANDOLPH. I want you to know there is no so-called difference from the standpoint of our purpose.

Mr. LEE. Right.

Senator RANDOLPH. None at all. There is no polarization. We are all working toward that same goal. That was the thought of Chairman Williams, the Senator from New Jersey, as we considered this matter in the Senate last year. All of us realize a commitment is necessary, and all of the matters of budget must be considered. All of these factors, you understand, Governor, must be weighed.

Mr. LEE. I have been working in this vineyard a long time, not as long as you sir, but I do understand the problems.

I certainly have no quarrel myself with S. 6, but I am impressed by the sheer size of it, the difficulty, the complexity of it. I am also concerned that it may not adhere to any predetermined timetable. The real danger is that in striving for the ultimate perfection, we may fall between two stools. It is my judgment that it is absolutely essential that we have extension of the Mathias funding formula until the day when S. 6 actually gets where it is going.

Senator RANDOLPH. Governor, the real purpose of our hearings is to hear from those persons who are on the firing line. Yesterday, Lieutenant Governor O'Neill of the Commonwealth of Massachusetts testified before our subcommittee. What we are trying to do is to bring all of these forces together, to have the information before us as we make decisions as to how to present to the full committee and then to the Senate, legislation which can receive the necessary support. Certainly, everyone, I think, with few exceptions, knows that it is a need to be met in greater degree than has been met in the past.

Mr. LEE. Senator, it may not be relevant to this discussion but I should tell you that right now, this year, I happen to be the chairman of the National Conference of Lieutenant Governors. I want you to know that Lieutenant Governor O'Neill is one of our secret weapons.

Senator RANDOLPH. You are also a member of the arsenal.

Mr. LEE. Right.

Senator RANDOLPH. We are happy that the Lieutenant Governors step forward and ask for the opportunity to testify as voluntary witnesses.

Mr. LEE. I want to see the great Mountain State come up with one.

Senator RANDOLPH. You wait until you hear today from Kate Long from West Virginia.

Mr. LEE. All right. I am flanked on both sides by people whose expertise in this field is much greater than mine.

In the absence of Senator Mathias, may I throw the ball to the next one in line here?

Senator RANDOLPH. At this point I have to step in because of our procedure and say that it is our thinking that we would hear next from Dr. McIntyre. We are focusing on the Maryland situation at the moment. If there are others who are going to speak from the Maryland delegation, well and good. According to our witness list, our next presentation will be by Dr. McIntyre, accompanied by Mr. Schifter.

Mr. LEE. Mr. Schifter is the vice chairman of the State Board of Education and a real expert in this field.

Senator RANDOLPH. Is Dr. McIntyre the only speaker or are there others to speak?

Mr. LEE. He has the presentation.

Senator RANDOLPH. Yes. That is what we understood. We will move to you, Dr. McIntyre. Then a little later we will go to the administration presentation and will come back to West Virginia.

STATEMENT OF DR. FRANCIS X. McINTYRE, ASSISTANT STATE SUPERINTENDENT, MARYLAND DEPARTMENT OF EDUCATION, ACCOMPANIED BY RICHARD SCHIFTER, VICE PRESIDENT OF MARYLAND STATE BOARD OF EDUCATION

Dr. McINTYRE. Thank you, Senator.

Mr. Chairman, my name is Francis X. McIntyre. I am Assistant State Superintendent for the Division of Special Education, Maryland State Department of Education.

I presented for the record a somewhat lengthier statement which I would like to paraphrase now and get the essential points across to you in a few minutes.

The most compelling point to us in Maryland is the melancholy arithmetic: Approximately 40 percent of the handicapped children in Maryland are not receiving programs or services that can be considered appropriate or are receiving no program or service at all.

Two recent events have already been mentioned. I will go over them briefly and more specifically.

Senator RANDOLPH. When you speak of 40 percent, translate that into numbers.

Dr. McINTYRE. Maryland's school population consists of about 900,000 children. If we use an incidence rate of 12.5 percent that we get from valid documentation, which is in Maryland, the suspect handicapped population is about 112,500 children. We are currently serving about 70,000 handicapped children with what we consider appropriate services. Therefore it leaves the 40 percent unserved adequately.

Two factors over and above our concern for the education of children compell us—one is a bill signed into law by Governor Mandel in May of 1973, referred to as the Senate bill 649.

There are five specific very pertinent issues contained in that law. They are as follows:

It broadens the definition of handicapped for education in Maryland; it clarifies the responsibility of State departments of education to be accountable for education of the handicapped; it mandates for the first time interagency coordination; it provides for education of all the handicapped from birth to 20 years of age; it mandates that all children be in appropriate educational programs by 1980.

Aspects of the litigation of the so-called Raine decree mentioned earlier are the second motivation.

There are four salient features of that litigation I would like to share with the committee. It mandates that it is the responsibility of the State of Maryland to provide a free education to all persons between the ages of 5 and 20, no matter how severely and profoundly handicapped they happen to be.

Maryland's handicapped children shall receive their education in approved educational facilities, not something less than that, which would be approved by the State Department of Education.

The decree requires for full funding for those children who must receive their education in nonpublic facilities where no public school program is available.

Finally, free transportation must be provided to handicapped children.

These two events, the legislation Senate bill 649, and the Raine decree have tremendously accelerated the pace at which the State must move to serve the handicapped.

As has also been said before but very briefly, the fiscal magnitude of this has created a serious drain upon the resources of the State of Maryland. As Lieutenant Governor Lee said, in 1966–67 we spent slightly more than $2 million. In 1975–76, it is approaching $44 million.

Senator RANDOLPH. The last 10 years we have increased it by about 42?

Dr. McINTYRE. Easily, yes, sir.

Now, to fill out the picture with three more details to give you an impression of what kind of effort is taking place within the State of Maryland already, recent State audits have indicated the State cost figures represent only about half of the total cost of special education. The remaining half of the cost is borne by the local education agency.

We are, therefore, operating in Maryland a program of $88 million in State and local funds. The Federal Government is contributing about $6 million over and above the $88 million. We have then an equal sign of $94 million in which the Federal share is less than 7 percent.

Unless the State of Maryland receives additional Federal support, Maryland and other States and territories will be unable to meet their mandates and responsibilities to the handicapped.

We suggest a 25 percent Federal share in the cost of education programs for the handicapped. This is an adequate level for the States based on Maryland's experience, and without at the same time, relinquishing too much control to the Federal Government.

The three bills before you today represent in different ways the increase and the necessary Federal commitment to the handicapped children. These bills are further in consonance with Maryland's legislative mandates in the litigation we face.

We believe that the Federal commitment to the handicapped in Maryland should be increased from 6.3 percent where it is now, to the suggested 25 percent level.

We believe that the Mathias formula extension proposed in both S. 1256 and S. 1264, represent the most equitable system yet devised for the allocation of funds for education of the handicapped. It is precisely what we need.

We believe that the bill with a magnitude of S. 6, however must be very carefully scrutinized, both fiscally and programmatically. A careful look at Senator Mathias' funding concept for inclusion in S. 6 should be considered. It represents to us the most cost accountable mechanism for targeting funds for the handicapped. We are also concerned with the five following specific provisions of the bill of S. 6.

It requires the development of educational plans for all children by 1978. In our experience, this is impossible to meet on a nationwide basis. We in Maryland, fortunately, have a 1980 time frame. We believe that is realistic.

The second of the five points is that the funding concept proposed requires the utilization of standardized cost accounting procedures nationwide. It seems impossible to achieve this based on the current state of the art in the fiscal aspects of special education financing. A more thorough look at financing should be taken at the Federal level. We would suggest the appointment of a national committee, perhaps to develop a cost accounting mechanism which is simple and easily adaptable from State to State.

Senator RANDOLPH. Do you feel that is a real compelling need?

Dr. McINTYRE. Absolutely essential, Senator, yes, sir.

Senator RANDOLPH. Should that be an obligation of the U.S. Office of Education?

Dr. McINTYRE. We believe so, in order to provide that uniformity and simplicity and adaptability in the nation.

Senator RANDOLPH. I wanted your opinion at this point.

Dr. McINTYRE. The third of the five points that are very important to us, the proposed State Planning and Advisory Panel seems to create a new bureaucratic mechanism for overseeing programs for the handicapped. We question strenuously the advisability of establishing a decisionmaking policy group over and above the legally mandated State agencies and boards already assigned a policy making function.

Fourth of the five points, the bill does not specify clearly the role of the Bureau of Education for the Handicapped, nor does it address itself to maintaining and increasing the services of the Division of Personnel Preparation, an organization we have relied on greatly.

We suggest an expanded and defined Federal training function under the aegis of the Bureau of Education for the Handicapped as absolutely necessary for the success of S. 6.

The last point we want to make about this is that while S. 6 sets forth the necessity of utilizing the various Federal programs set aside in Public Law 89-313, they go forth in a manner consistent with the goal of providing a free, appropriate public education, there is no indication that these programs must also commit their funds first to the unserved as set forth under recent revisions to the Education of the Handicapped Act.

With those five points more specifically outlined in my prepared testimony, we believe that S. 6 can be the most comprehensive approach to meet the needs of the Nation's handicapped children.

We believe that Congress should extend the Mathias formula for at least another year or for 2 years, as proposed by Senator Randolph, while making every effort to fund part B of the current authorization level.

Finally, Senator, by way of venting my own strong feelings as we confront arguments against the legislation of this kind for the handicapped, it seems to me that the most compelling argument against this approach, against the forceful and comprehensive Federal legislation supporting education for the handicapped, is very poor.

The argument against is that handicapped children are denied the available and developing techniques and programs simply because they cost more money.

The conclusion is that the handicapped child is less than equal as a human being. He does not get what works for him as the normal child does in the normal public school program, not because he is bad or his citizenship is different or even because his race or nationality is different, but because he is handicapped. I hope that makes no more sense to this committee or the legislature, than it does to me.

We, in Maryland, along with Senator Mathias and Senator Beall, cosponsors of S. 1256, believe that as long as educational opportunity for all is our goal, we have to commit ourselves now.

Thank you very much for your attention.

Senator RANDOLPH. Thank you very much, Dr. McIntyre. I am intrigued, in a sense, with your statement. Handicapped children are denied the available and developing techniques and programs simply because they cost more. The conclusion is that the handicapped child is less equal as a human being.

Dr. MCINTYRE. That is correct.

Senator RANDOLPH. The handicapped child is denied these advantages, not because he is bad or his citizenship is different or even because his race or nationality is different, but because he is handicapped. I hope that makes no more sense to you than it does to me. You are saying then that if a person has an impairment, that impairment shouldn't set the person aside to be forgotten or slighted. Is that what you are saying?

Dr. MCINTYRE. That is correct, sir.

Senator RANDOLPH. Education must, of course, begin in the early years; is that correct?

Dr. MCINTYRE. Yes, sir, very much so.

Senator RANDOLPH. We have many questions. Some day I hope we will have the good sense to have legislative days and committee days. This idea of the Senate being in session and the committees meeting at the same time is not the most effective way to operate. I am working on that with others to see that this is changed. There are some drawbacks, perhaps, in trying to set up legislative days and the committee days. But there is a way it can be worked out. I think of the times when I've had to interrupt a hearing of five or six witnesses who have come perhaps a thousand miles to testify. We had a 20-minute recess yesterday because of back-to-back roll calls.

We may have questions for you from Chairman Williams of the Labor and Public Welfare Committee, and also from Senator Beall and others. Those questions and perhaps others will be given to you and you will respond to them in writing. We will have them made a part of this record.

I am told now from the cloakroom that our first vote is 11:30 on the amendment offered by Senator Gravel of Alaska. I think it will be best if Mr. Schifter has any remarks that should be made a part of the record that they be submitted in writing.

Dr. McIntyre. Mr. Schifter has his statement. We will see that you get it.

Senator Randolph. Fine. That will be very helpful to us. We thank you very much, all of you from—is it the Free State of Maryland?

Mr. Lee. Yes, sir.

Senator Randolph. Thank you very much.

Mr. Lee. Thank you.

Senator Randolph. That was very helpful testimony.

[The prepared statements of Dr. McIntyre and Mr. Schifter follow:]

U. S. Senate Sub-Committee on the Handicapped

Testimony - S. 6, S. 1264, S. 1256

Maryland State Department of Education

April 9, 1975

Mr. Chairman, Members of the Committee, my name is Francis X. McIntyre. I am Assistant State Superintendent for the Division of Special Education, Maryland State Department of Education.

Special Education today is a growing, complex enterprise. It is beset with unprecedented problems and controversies. Incidence figures indicate there are 7,000,000 handicapped children, of whom 60% are denied the special educational assistance they need. One million are denied entry into our public schools, and hundreds of thousands are committed to residential institutions where little more than physical sustenance is provided at costs far in excess of what education and rehabilitation would cost.

Maryland, along with other states and territories, is moving rapidly to meet its responsibility to all handicapped children. However, the road ahead is rutted with the grim statistics indicated above.

Maryland's school population is about 900,000 children. If we use an incidence rate of 12.5%,[1] Maryland's suspected handicapped population is 112,500 children. We are currently serving about 70,000 handicapped children with appropriate special education services. That melancholy arithmetic leaves 40% who are receiving programs or services that cannot be considered appropriate, or none at all.

Two recent events in Maryland have heightened the necessity for the state to reach its goal of providing free and appropriate educational opportunities for all children by 1980.

Firstly, on May 21, 1973, Governor Mandel signed into law, Senate Bill 649, which became Section 106 D and E of Chapter 7B, of Article 77, of the Public

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1. Richard A. Rossmiller, James A. Hall, and Lloyd E. Frohreich, Educational Programs for Exceptional Children: Resource Configurations and Costs. Madison, Wisconsin: University of Wisconsin, 1970.

School Laws of Maryland. This new law greatly broadens the scope and increases public school responsibilities for providing education and services to handicapped children. Included among the more significant changes from the prior law are:

a. A broadening of the definition of the handicapped.

b. A clarification of responsibility of State Department of Education to be accountable for education of the handicapped.

c. A mandate for interagency coordination.

d. Provisions for education of all the handicapped from birth through twenty years of age.

e. A mandate that all children, birth through twenty years of age, be in appropriate educational programs by 1980.

Secondly, the Pennsylvania Association For Retarded Children versus The State of Pennsylvania Litigation and the Mills versus Board of Education of the District of Columbia lawsuit, established the rights of handicapped children to a free, publicly supported education suited to their needs.

In December, 1973, the Maryland Association for Retarded Children, (MARC) introduced in the Circuit Court of Baltimore County a right to education suit against the State Department of Education, State Department of Health and Mental Hygiene, and six local education agencies (Prince George's County, Montgomery County, St. Mary's County, Baltimore City, Baltimore County, and Dorchester County). The plaintiffs contended that the defendant, the Maryland State Department of Education, had not provided free public education to fourteen (14) children representing various classes of severely to profoundly handicapped individuals. The plaintiffs further contended that the State Department of Health and Mental Hygiene did not provide approved educational programs for children residing in State institutions. The plaintiffs charged that day care programs were not available to such severely and profoundly handicapped children. It was also charged that the State and local unit defendants had virtually excluded severely and profoundly handicapped children from [illegible]

On May 3, 1974, the Circuit Court of Baltimore County decided the following:

1. It is the responsibility of the State of Maryland to provide a free education to all persons between the ages of five and twenty years no matter how severely and profoundly handicapped they may be.
2. Maryland's handicapped children shall receive their education in approved educational facilities.
3. Full funding shall be provided to those children who must receive their education in nonpublic facilities, if no public school program is available.
4. Free transportation shall be provided to handicapped children.

These two events, the legislation and the decree, have accelerated the pace at which the State must move to serve the handicapped. Furthermore, these events have created a serious fiscal drain upon the resources of the State of Maryland and of local governments. The following figures indicate the extremely rapid growth in State support of programs for the handicapped.

YEAR	STATE AID FOR THE HANDICAPPED
1966-67	$ 4,749,484
1967-68	9,999,264
1968-69	14,793,506
1969-70	15,794,967
1970-71	20,686,572
1971-72	26,220,334
1972-73	27,493,899
1973-74	30,663,600
1974-75	34,500,000
1975-76	43,900,000

Recent State audits have indicated that the above cost figures represent only about one half of the total cost of Special Education. The remaining one half of the cost is borne by the local education agency. We are, therefore, operating in Maryland a program of about $88,000,000 State and local funds. The Federal Government is contributing about $6,000,000 over and above the $88,000,000. We have, then, a $94,000,000 program in which the Federal share is less than 7%. Unless the State of Maryland receives additional Federal support, Maryland and other states and territories will be unable to meet their mandates and responsibilities to the handicapped. A 25% Federal share in the cost of education programs for the handicapped is what is needed. This figure would bring expenditures to an adequate level for the states (based on Maryland's experience and without relinguishing control of programs to the Federal Government.

The three (3) bills before you today represent, in different ways, an increased and necessary Federal commitment to the handicapped. These bills are further in consonance with Maryland's legislative mandates, as well as its recent court decree (MARC vs. the State of Maryland).

We believe that the Federal commitment to the handicapped in Maryland should be increased from the current 6.3% level to the suggested 25% level.

We believe that the Mathias Formula extension proposed in both S. 1256 and S. 1264 represent the most equitable system of entitlements to states yet devised for the education of the handicapped.

We believe that a bill of the magnitude of S. 6 must be carefully scrutinized both fiscally and programmatically. A careful look at Senator Mathias' funding concept for inclusion in S. 6 should be considered; it represents to us the most cost accountable mechanism for targeting funds for the handicapped. We, in Maryland, are also concerned with the following specific provisions of S.6:

1. It requires the development of [illegible] for all children by 1976.

This is impossible to meet on a nationwide basis with that short a timeframe. 1980 is far more realistic.

2. The funding concept proposed requires the utilization of standardized cost accounting procedures nationwide. It seems impossible to achieve this, based on the current state of the art in respect to special education financing. A more thorough national look at financing should be taken at the Federal level. We would suggest the appointment of a national committee to develop a cost accounting mechanism which is simple and easily adaptable from state to state.

3. The proposed State Planning and Advisory Panel seems to create a new bureaucratic mechanism for overseeing programs for the handicapped. We question the advisability of establishing a decision-making policy group over and above legally mandated State agencies and boards already assigned a policy making function.

4. The Bill does not specify clearly the role of the Bureau of Education for the Handicapped (BEH), nor does it address itself to maintaining and increasing the services of the Division of Personnel Preparation. An expanded and defined Federal training function under the aegis of BEH is absolutely necessary for the success of S. 6.

5. While S.6 sets forth the necessity of utilizing the various Federal program set asides (P.L. 89-313, Vocational Education, etc.)in a manner consistent with the goal of providing a free appropriate public education for all handicapped children, there is no indication that these programs must also commit their funds first to the unserved as set forth under the recent revisions to the Education for the Handicapped Act.

With the suggested revisions above, we believe that S.6 can be the most comprehensive approach to meet the needs of the nation's handicapped children.

STATEMENT BEFORE SUBCOMMITTEE ON THE HANDICAPPED OF THE SENATE COMMITTEE ON LABOR AND PUBLIC WELFARE BY RICHARD SCHIFTER, CHAIRMAN OF GOVERNOR'S INTERAGENCY TASK FORCE ON THE EDUCATION OF HANDICAPPED CHILDREN

April 9, 1975

I would like to offer only a few brief comments concerning the legislation before you.

In my years as a member of the State Board of Education of Maryland I have found no experience as tragic and frustrating as responding to telephone calls from parents of handicapped children. In each instance I would be told of the one, all-consuming problem with which a family will have lived for years. Too often, all too often, I would have to respond that we wish we could be of help but we do not have the funds to do the job that has to be done.

The State of Maryland and many of its subdivisions have made a major effort in recent years to provide funds for improved services to handicapped children. There is no question that we have made significant progress. But we have far to go before we can say that we are doing the best possible job for all the children affected. The resources to do such a task are not likely to be available in the foreseeable future at the State and local government level. That is why the kind of support which S. 6 would offer would indeed be ideal.

But one does not have to be clairvoyant to conclude that S. 6 is not likely to become law in the immediate future. Yet, the children that need to be served are here now and any time that we lose may mean that opportunities for the affected children are lost irretrievably. That is why we are not taking an all-or-nothing approach, but ask that you enact S. 1256 or S. 1264.

Last year's Mathias amendment has already begun to provide the funds to enable us to plan for significant program improvements in the field of special education in F.Y. 1976. If the principle of that amendment were extended and if the amendment were funded at a higher level, we could build further on what we have already planned for next year and the years following.

If you were to ask whether sums less than are provided by S. 6 can do much good, my answer is an emphatic "yes". To begin with, where programs are already in existence, even a relatively small incremental sum can change the character of a program from less than adequate to adequate or superior. Beyond that, and most importantly, Federal funds can be used to lay a foundation for further progress through the development of demonstration projects or special training programs. This latter point is most important and I would like to underline it.

The point to remember is that our State legislature, and I assume other State legislatures as well, will, in voting for State aid for special education, insist on the distribution of the funds to the local school districts on some formula, so that these districts are in a better position to carry out their programs. Little if any money is left over to do the advance planning for further program development or to address special needs or support special demonstration projects. But, as long as Federal funds can be used more flexibly, we are able to make the kind of investment in the future that I have just described.

It is in this context that I do ask that the law be amended or clarified. The provision of the statute now codified at 20 U.S.C. §1413(12)(A) calls for "priority in the utilization of funds [for] handicapped children who are not receiving an education." I ask that this statutory provision be amended to read "to handicapped children of school age".

My reason for suggesting this amendment is that there is no doubt that all states should, in keeping with the provisions of the Fourteenth Amendment, provide educational services to all children of school age, irrespective of their handicap. As long as they fail to to do so, they should be required to spend all Federal funds to meet their constitutional obligation before spending any money elsewhere.

However, the language now in the law has been read to require every state not only to meet its constitutional obligation to its school age children but to allocate available Federal funds to serve pre-schoolers before it can be used for any other purpose. I want to say that I am all in favor of programs for pre-school children, but I consider it highly inadvisable for us to be compelled to use all available Federal funds to develop pre-school programs if we have identified a greater need and a better use of the money elsewhere. That is why I hope that you will adopt the proposed amendment.

In other words, if you insist that the Federal money be used to make every state live up to its constitutional obligations, without making it necessary for parents to go to court, that is certainly wise and proper. However, once you move from an issue of constitutional law to an issue of educational policy and tell a state what educational programs deserve priority, I would question the wisdom of your action. Quite frankly, I assume that the result which the foregoing provision has produced was unintended and I am, therefore, asking for a correction of the law.

This brings me to a final point, the role of the Federal bureaucracy. I would like to urge this Committee to take whatever steps are necessary to reduce the enormous Federal requirements of paper work, much of which is useless and meaningless. Voluminous reports in this and other fields must frequently be filed with Federal agencies. Many of these reports simply use up time, paper, and money, without producing useful results for children. Far too often we are involved not in arguments over substance and programs but are in disagreement over the gobbledegook which is to be incorporated into the reports to the Department of Health, Education and Welfare. I hope that in your legislative reports you could comment on this phenomenon and urge an end to it.

To sum up, while we recognize that it would be indeed most helpful to all handicapped children if S. 6 became law, we ask you at this time to report favorably on S. 1256 or S. 1264.

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Senator RANDOLPH. Dr. Bell, will you testify, please? You will understand the need for summarization. Your statement will be included in its full text in the record. We are gratified that you have come to us this morning. If you will, proceed.

STATEMENT OF DR. TERREL H. BELL, COMMISSIONER OF EDUCATION, U.S. OFFICE OF EDUCATION, ACCOMPANIED BY DR. EDWIN W. MARTIN, JR., ACTING DEPUTY COMMISSIONER FOR THE BUREAU OF EDUCATION FOR THE HANDICAPPED, AND CHARLES M. COOKE, JR., DEPUTY ASSISTANT SECRETARY FOR LEGISLATION (EDUCATION)

Dr. BELL. If the chairman prefers we can submit this for the record and go right to discussion.

Senator RANDOLPH. Yes, it will be printed in full in our record. You just highlight the points that you believe will be valuable in the statement that you will make at this time.

Dr. BELL. We would like to emphasize, just paraphrasing from our statement, that the Office of Education will be spending $338 million in fiscal year 1976. Of course, these are obviously, Mr. Chairman, not all in the Education of the Handicapped Act. Many of them are set-asides in other education laws, so I wanted to clarify that.

Not included in this figure is the set-aside for vocational education for the handicapped since that amount has not been requested by the administration, pending the passage of its vocational education proposal.

The second page of my testimony discusses the issue of who is responsible for the education of handicapped children and its emphasis is, of course, on the position this administration has had. This is a State responsibility, but hopefully this doesn't imply that the Federal Government can walk away from this totally.

The statement emphasizes the requirements, that I am sure the chairman was instrumental in helping to get into legislation under Public Law 93-380, that puts some enforcement requirements upon us in seeing that handicapped children are served.

Just a few points here, Mr. Chairman, and I think my paraphrasing will have been completed. We estimate over on the third page of my testimony, that S. 6 provides for 75 percent of the excess cost, as we calculate that for 7 million children. The figure that the chairman pointed out is our estimate that approximately $4.2 billion will be required to fund S. 6, using the average costs and figuring what 75 percent of the excess cost would be.

That is how we arrive at the $4 billion figure.

Close to the bottom of page 4 we discuss in our testimony some other points. I will not go into it here, but I am sure you are thoroughly familiar with them. We will turn from that to some discussion that we have had about the problems of identifying handicapped children.

I know that has been a concern to this committee: getting adequate data and being able to substantiate it. I might just depart from paraphrasing from my testimony, Mr. Chairman. I want to emphasize, in case it hasn't been recalled, that in Public Law 93-380, the education amendments that were passed and signed into law last summer, that the National Center for Education Statistics is now under the Assistant Secretary for Education and not under the jurisdiction of the Commissioner. So any directives and any legislation that has to do with data gathering will need to take that into account. I just wanted to add that. I know you have a mountain of data to keep in mind. So the chairman will be aware of that.

We feel that as was pointed out, I think, by the previous witness from Maryland, there is an enormous job to do here in gathering data. We want to work with this National Center for Education Statistics.

Senator RANDOLPH. I would like to point out, Dr. Bell, that we have heard 12 days of testimony on the education of the handicapped. Those volumes on hearings in 1973 and 1974 contain statements on this subject that are worthy of study. They have one common denominator, one that runs through all of them. There has to be an expanded effort within the Federal Government in the field of educational opportunity for the handicapped. There has to be increased commitment to achieve equal educational opportunity for handicapped children. That must become a reality. It is at this point that I ask you, do you believe that the U.S. Office of Education is the arm of the Federal Government in this responsibility? Do you believe that you can or should step forward with a more affirmative role than you have in the past and also that you should give us the direction that you think this necessary expanded effort should take?

Dr. BELL. I think that we have a very heavy responsibility. I think it is in Public Law 93-380 that we find the enforcement part of this. I guess one of the fundamental questions, one of the great concerns of this administration, as I speak on behalf of the administration, is whose money should support this, whose responsibility is it? I am sure that the Chairman has likely heard this before in previous testimony.

It is the position of the administration that this is a State responsibility and that we ought to do all that we can to encourage and enforce the mandates of the law. But the primary thrust of the money should be coming from the States. The administration argues that the States are in a better fiscal condition than the Federal Government on this.

I know that this has been an argument that has been presented before. Although I wasn't here when the hearings were held last year, since I wasn't Commissioner at that time, I am aware at this point of it. Let me conclude in responding to your question that notwithstanding the position of the administration on whose money it should be, that it will be my firm determination, and sitting here with me is Dr. Martin, whom I believe is one of the foremost authorities on education of the handicapped in the United States, and I can say on behalf of both of us, that whatever the outcome of the legislation we will do our utmost to be assertive and aggressive and administratively responsible in faithfully carrying out the legislative intent.

I don't want to equivocate a bit on that, Mr. Chairman, I want to say that for the record.

Senator RANDOLPH. Thank you, Dr. Bell.

Dr. BELL. I believe that I have summarized the salient points in my testimony. I am looking at my watch, knowing how soon you have to leave. So I would be most happy, Dr. Martin and I, to respond.

Senator **RANDOLPH**. I have one question for Dr. Martin. In a sense it is the same question I asked of you. You have been part of this development in the Office of Education, and you have watched the development of the Bureau of Education for the Handicapped. I would like for you to speak, Dr. Martin, on what you consider to be a more effective role, if effective is the proper word to use, in helping us to establish a national policy that will more adequately meet the needs of the handicapped children in our educational process.

Dr. **MARTIN**. Senator Randolph, since the days of 1967, when you and your colleagues on the Labor and Public Welfare Committee began this program of assistance to the States and created the Bureau, there has been a rapid growth in Federal support through a variety of activities. Most of them are specific kinds of programs that the Congress has authorized. We have gone from a period where the Federal share was perhaps $20 million or $30 million to a period now where it is almost $400 million.

This has had a profound effect on many States. You may remember meeting with us a few weeks ago, when the West Virginia officials were down and Superintendent Taylor made a point that a few years ago in 1971, the funding from the Federal effort represented more than 50 percent of the Special Education funds in West Virginia, and provided them with the catalyst and the beginning efforts, the seed money in a sense to get off the ground.

Today, the Federal funds represent 12 percent and the State has more than tripled, I think, the number of children that it is serving. I think that illustrates well where we are today and where we have been over the last few years with the Federal effort being a stimulus to State effort, helping train teachers supporting model projects, a variety of activities.

The budget that we asked for this year will continue that pattern. We have asked for increased funds to train teachers. We have asked for additional funds to develop materials for the deaf and so forth. But in addition to that, under Commissioner Bell and under his predecessor Commissioners Ottina and Marland, we have also tried to take a leadership role in the stimulation of State concern and commitment to children through public statements, through the development of priorities and through a variety of encouragements to groups like the Chief State School Offices, the School Board Association and others to join in this national effort.

I think that is the role that we have. It has been an extremely successful role. We have seen more than 2 million children added to the rolls since 1967. But at the same time the problem of how to get the remaining children served as quickly as possible is one that troubles us, and, of course, is the basis for your hearings.

Senator **RANDOLPH**. I would say that we were late in bringing the 1967 bill into being, would you agree?

Dr. **MARTIN**. I think, yes, in a sense, that as long as a child is waiting for an education we are too late and we are still too late in that regard.

Senator **RANDOLPH**. I think we must always accept our responsibility, not only in the executive, but also in the legislative branch.

Dr. BELL. I might say on your behalf, however, that the bill at that time was introduced by the Congress and was not requested by the administration.

Senator RANDOLPH. We realize the lateness in giving a priority to this subject. However, we now must ask for more money to strengthen the program and serve more children.

Dr. MARTIN. I think our feeling is there is more to be done with the distribution of the Federal share. We are emphasizing the role of stimulating support for the States pressed with the needs to solve this problem as quickly as possible, looking for financial support from whatever source they can get it, State, local, and Federal level.

Senator RANDOLPH. People differ in priorities. In good conscience they do. However, it is time for us in a subcommittee of this type dedicated to the purpose for which we meet to realize that we must take a very hard look at what we are doing and then ask ourselves if we can continue services at the present level or must we lift it? Must we serve these children beyond what they are being served at the present time? I have the hope and belief that the administration, Dr. Bell, Dr. Martin and others will want to join with us in this effort. I don't say what we will do will be approved by the Congress in its totality as we bring a first bill. As you will remember, Dr. Bell, Dr. Martin, we passed the vocational rehabilitation bill and then we were turned back by the administration. We passed it again, and again we were turned back. Then the third time, we brought about the passage of the bill which was signed into law. We are going to work together. We have differences, but perhaps these can be our strengths.

Dr. BELL. That is surely so.

Senator RANDOLPH. Of course, let us work together to do what is necessary. We are going to ask that the excess cost report be included in the record.

Dr. BELL. That is a very important report.

Senator RANDOLPH. Very, very helpful. We may have questions that will be sent to you. Dr. Bell, we are grateful to you.

Dr. BELL. Thank you.

[The prepared statement of Dr. Bell and additional material subsequently supplied for the record follow:]

FOR RELEASE UPON DELIVERY

Statement by
Honorable T. H. Bell
U.S. Commissioner of Education
Department of Health, Education, and Welfare
Before the
Subcommittee on the Handicapped
United States Senate
Wednesday, April 9, 1975
10:00 a.m.

Commissioner Bell is accompanied by:

Mr. Charles M. Cooke, Jr., Deputy Assistant Secretary for Legislation (Education), DHEW

Dr. Edwin W. Martin, Acting Deputy Commissioner, Bureau of Education for the Handicapped, OE

I am happy to appear today before this Subcommittee to discuss the funding formula and other provisions of S. 6, S. 1256 and S. 1264. These bills provide the basis for discussing the appropriate Federal role in providing educational services to handicapped children.

As you know, the Federal effort in improving educational services to the handicapped has increased rapidly in the past decade. Not only has the obligation level risen over ten times, but the scope of programs has broadened considerably. From a narrow program in 1964 spending $20 million on traditional education, primarily for the blind and deaf, several Federal programs for the handicapped in the Office of Education alone will spend more than $338 million in fiscal 1976.

The Office of Education is now involved in: training teachers, aides, administrators and other specialists needed to provide education to the handicapped; encouraging child advocacy programs and applied research; demonstrating and disseminating exemplary programs, including physical therapy, occupational training and early childhood education; supporting national and regional efforts to identify handicapped children, properly diagnose their educational needs and direct them to appropriate services; and providing direct aid to programs for the severely handicapped, deaf-blind, and children in State institutions to supplement the State commitment in this area of education.

In addition, Part B, for which the Congress has appropriated $100 million in FY 1975, provides funds to States for initiating, expanding and improving their own special education programs. This broad range of activities has made BEH the focal point of the Federal effort in educating the handicapped. Its accomplishments have been an important factor in raising national sensitivity to the right of all handicapped children to equal educational opportunity.

Historically, the responsibility for the education of children has rested with the States. A substantial body of litigation continues to clarify the State role in both the financing and administration of education, including education of the handicapped. For example, since we last testified in this area, Federal court decisions have found that States may not completely delegate the responsibility for education to a local school district. Accordingly, it is clear to us that the ultimate responsibility for education rests with the States -- not the Federal or local levels of government.

While the Federal role in financing the education of the nation's children remains secondary, prohibiting discrimination against handicapped children in education is a specific Federal responsibility. Legislation passed by the Congress in the past two years gives the Executive branch authority to enforce both the elimination of all discrimination against the handicapped in Federally assisted programs and activities (Section 504 of the Vocational Rehabilitation Act of 1973) and specific requirements for approving State plans to provide special education (Sections 612 and 615 of the Education Amendments of 1974).

I want to emphasize that both the Department and the Office of Education are taking these responsibilities seriously, and guidelines and regulations to insure State compliance with these statutes will be issued in the near future. Thus, the Federal role in the education of handicapped children involves helping to build the capacity of State and local education agencies to meet their responsibility of providing services and to insure equal educational opportunity for handicapped children.

S. 6 would extend the Federal role in education of the handicapped far beyond this to one which places heavy financial responsibility for their education on the Federal government. This dramatic change would be effected by having the Federal government provide 75% of the costs of educating handicapped children in excess of the average per pupil expenditure for non-handicapped children, and giving the Federal government the responsibility to evaluate the States' efforts in educating the handicapped. We estimate that the cost of such a role for the Federal government would exceed $4 billion per year.

In previous testimony we stated that such a sharp change in the nature and size of the Federal role demands thorough consideration:

. First, this bill fails to consider the broad problem of integrating service delivery to handicapped people. Most State delivery systems approach the needs of handicapped people by having isolated groups of professionals provide specialized services without attempting to treat the continuum of individual need. S. 6 would increase the level of educational support as opposed to rehabilitative, medical or diagnostic services without examining the States' current delivery system and attempting to target supplemental Federal aid on States' weaknesses.

. Second, this bill would also place complete responsibility for the education of the handicapped in the State education agency, a position which contravenes a number of State laws. We would thus be imposing Federal administrative procedures in an area which is traditionally and legally a State prerogative. We believe such intervention is unnecessary to achieve the goal of full educational opportunity for the handicapped.

. Third, it is important to note that the argument for Federal assumption of incremental special education costs has become increasingly weak. In proposing solutions like S. 6, the tendency has been to assume that the Federal government has unlimited financial resources. The sharply increased deficits in the Federal unified budget means that the Federal government should not expand its role in an area which is a State responsibility. In addition, declining school enrollments, which lessen demands on established State and local tax bases, put States in a better position than the Federal government to support programs for all children with special needs. Based on its estimated cost alone, Mr. Chairman, I do not believe I need to amplify further the Administration's opposition to this bill.

Next, the problem of identifying handicapped children for the purpose of a formula such as that contained in S. 6 has other dimensions that must concern us. The procedures in this bill would tend to encourage States to "label" many children, particularly those requiring special services, as handicapped. States would be encouraged to maintain that number at the highest possible level. For children with mild handicapping conditions the social stigma of the "labeling" can have lasting adverse effects on the child's development -- effects outweighing any special educational services they may receive. The reports of widespread mislabeling of disadvantaged and bilingual children by identifying them as mentally retarded or emotionally disturbed, point to cultural bias found in commonly accepted and widely used screening instruments, and this must heighten our concern.

Finally, the problems inherent in the administration of an excess cost formula are almost insurmountable. We have just completed a study which indicates that the Office of Education could not, in the near future, insure an equitable distribution of these funds. Among the findings which led to this conclusion are the imprecision in categorizing handicapped children, the wide range of eligibility based on age, and the quality of financial data at the State level. For instance, one State in our study reported emotionally disturbed and learning disabled children in the same category and several States did not distinguish between hard of hearing and deaf children, and partially sighted and blind children. More important, some States limit participation to those handicapped children of compulsory school attendance age, while others mandate services for children 0-21, thereby almost doubling the population eligible for Federal reimbursement. Even if States had comparable standards for identifying handicapped children, the lack of comparable financial data would not allow the development of an excess cost formula.

S. 6 proposes to solve these problems by adopting "such fiscal and accounting procedures as may be necessary to assure proper allocation of the funds." Our analysis indicates that an individualized pupil accounting system would be necessary to insure a distribution which would reflect accurately the costs of educating "mainstreamed" children, those whose placement includes both regular and special instruction. We have neither the technical capability nor the immense resources required to determine the expenditures for each student in the United States. Even if the law were simplified so that common program accounting at the LEA level met its requirements, the costs and the administrative problems would remain substantial. Although the final report from the National Center for Education Statistics Common Core of Data Feasibility Study has not yet been submitted, preliminary findings on the cost of collecting these data at the local level seems to require expenditures well in excess of the original estimate of $150 million a year for 5 years.

The evaluation procedures contained in S. 6 are also troublesome. The thorny intricacies of achieving appropriate identification without unnecessary labeling should not be taken lightly. Further, mandating a yearly individualized written program for every child receiving specialized services as contemplated in S. 6 could produce an administrative nightmare without resolving the problem. Even if the States could assemble and update the necessary millions of plans without infringing on the confidentiality or due process rights of the children identified (an extremely doubtful prospect), evaluating the quality and appropriateness of those plans would require tremendous resources; manpower and funds used in the direct provision of services.

I would now like to turn to proposed bills S. 1256 and S. 1264. Both of these bills are essentially extensions of the formula for funding the Part B State Grant program contained in section 611 of P.L. 93-380. This formula sets the authorization level at $8.75 per child (handicapped or not) aged 3 to 21 who resides in the United States. The authorization level for FY 1975 is approximately $665 million. These bills would increase the current authorization levels of $100 and $110 million for FY 1976 and FY 1977 to approximately the FY 1975 level.

Our primary objection to this formula has been and continues to be the large authorization ceiling. This authorization has created expectations among the teachers and parents of handicapped children which can not be met. A more realistic authorization level, allocated on a per pupil basis, would be the level proposed in the President's FY 1976 budget, which would be sufficient to allow States to continue "to expand, initiate, and improve" their programs for handicapped children.

The problems of educating the handicapped are more complex than the proposed solutions contained in these bills--a massive infusion of funds. In recent years the Department has sponsored a number of efforts to expand our knowledge and to evaluate the proper Federal role in this area. A RAND report, "Services for Handicapped Youth", questioned many of the traditional notions about special education. Other studies, particularly The Futures of Children, directed by Dr. Nicholas Hobbs, raised important questions about the methods and consequences of "labeling" children as handicapped. Moreover, as previously mentioned, the National Center for Education Statistics last month published a survey of the costs of educating the handicapped in nine States. Its conclusion was that the information necessary for Federal participation on an excess cost basis is not available and recommended analysis of alternative funding strategies for educating the handicapped. Finally, preliminary evidence from an ongoing Office of Education evaluation of educational programs for severely handicapped children indicates that cost and quality are not directly correlated. Thus, the most expensive program is not necessarily the most effective.

While we continue to search for more conclusive answers to the problems inherent in educating the handicapped, we will concentrate our attention on ensuring equal educational opportunity for all children. Specifically, we can provide States with a broad range of technical assistance and trained personnel; we can enforce strong Federal non-discrimination statutes; and we can continue State discretionary programs which are proposed for funding in FY 1976 at about $250 million a year.

Moreover, I would like to stress a simple fact which we all know, but which is an important element in this discussion. The amendments to the "Education of the Handicapped Act" contained in P.L. 93-380 have been in effect for less than eight months. These amendments not only changed the Part B formula but also mandated sweeping and farreaching provisions on full opportunity, due process, confidentiality, and nondiscriminatory testing. It is important to note that the deadline for State plans for FY 1975 was March 17 and thus the Bureau has just begun its review. More extensive plans for FY 1976 are not due until August 21. These plans must include procedures for child identification and maintenance of confidentiality, a detailed time table for accomplishing a goal of full educational opportunity, and a description of the kind and number of facilities, personnel, and services necessary to meet that goal. The Bureau is working closely with States to implement P.L. 93-380, but until the State plans which reflect these requirements have been analyzed, it is impossible to know whether States can effectively absorb additional Federal funds as proposed in these bills. We want time to assess the impact of the FY 1975 doubling of Part B monies on the States' education plans. We are concerned that this money not be used to supplant existing State expenditures in programs for the handicapped, and thus prefer a breathing period -- an opportunity to evaluate the current situation. The Congress and the Executive Branch have worked cooperatively in the last decade on behalf of handicapped children. Before enacting legislation such as S. 6, with its profound shift in Federal responsibilities, we feel that more careful analysis of the current roles played by the various governmental agencies at all levels is necessary. In concert with Congress, we should analyze all the Federal programs and examine in depth the question of all services for the handicapped. The

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Federal government has led the drive to recognize the rights of all children to full educational opportunity, but we must be careful that our involvement does not carry us beyond the limits of our knowledge as we strive to achieve this goal.

NCES 75-223

STUDY OF EXCESS COSTS
OF
EDUCATING HANDICAPPED PUPILS

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FOREWORD

The Select Subcommittee on Education of the U.S. House of Representatives asked U.S. Commissioner of Education T.H. Bell for a special survey and study to estimate the excess costs of educating handicapped children. The study, needed in conjunction with legislation being considered by the Subcommittee, was assigned by Commissioner Bell to the National Center for Education Statistics (NCES). This report presents the main findings of the survey.

The special survey and study were the responsibility of Stafford Metz, Chief, Educational Manpower Statistics Branch, NCES, Leslie J. Silverman, Senior Statistician, Statistical Development Staff, NCES, and Nelson Ford, Educational Planning Specialist, Office of the Assistant Secretary for Planning and Evaluation, HEW. Special assistance was provided by The Office of Education's Bureau of Education for the Handicapped.

I am grateful to the representatives of the nine States participating in the survey.

Francis C. Nassetta, Acting Administrator
National Center for Education Statistics

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INTRODUCTION AND FINDINGS

The Select Subcommittee on Education of the House of Representatives requested a comparative study of the costs of educating handicapped and nonhandicapped pupils. Specifically, they sought an analysis of the excess costs of educating the handicapped–by type of handicap, by type of instructional situation, and by various other detailed categorizations. After receiving a preliminary report, they asked for a recommendation of an excess-cost structure or model and the resource requirements to develop, install, and operate a nationally uniform data system to produce comparable excess-cost data.

To collect the necessary data, a study team from the National Center for Education Statistics and the Office of the Assistant Secretary for Planning and Evaluation, with the cooperation of the Bureau of Education for the Handicapped, conducted a survey in nine State education agencies (SEA's)–California, Indiana, Kentucky, Maryland, Minnesota, New York, North Carolina, Pennsylvania, and West Virginia.

The complete survey materials from each SEA except one,[1] including a sample questionnaire and detailed presentation and discussion of the findings of the survey, constitute the bulk of this report.

A. Findings about the cost data supplied by SEA's.

1. No State surveyed had all the data needed for a detailed analysis of excess costs of educating the handicapped. In fact, most of the States had little of the needed data in the detail requested for the school year 1972-73.

2. Few of the States maintained a detailed accounting system for their education of the handicapped programs. Personnel cost data supplied by most of the States were largely approximations made from secondary data sources. Costs of transportation and supplies generally were estimated by proration.

3. None of the States surveyed maintained, at the requested level of detail, an information system on the resources used for educating the handicapped. For example, no State could provide complete data on professional staff, either by position or by type of disability (e.g., how many guidance counselors or psychologists work with the educable retarded). Many States did not even have data on staff by position without regard to the type of handicapped pupils served (e.g., what percentage of time do guidance counselors or psychologists spend with the handicapped).

4. Cost data were not comparable. (See table, page 3.) States were often unclear as to whether specific costs (e.g., fringe benefits) were included in larger cost categories. Data from two or more independent sources were frequently combined.

5. Few States provided cost data on institutionalized children under the care of other State agencies (e.g., retarded or severely handicapped children under the care of a State health agency).

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[1] One State did not complete the questionnaire and no team member was able to visit the SEA. Because of the inclusive nature of the data, which covered all special programs, the information provided by the State could not be compiled by handicapping condition.

B. Findings about the costs of educating handicapped pupils. (See table, page 3.)

C. Other findings.

1. Some SEA's supplied statistical data from administrative financial accounting systems tailored to reimbursement of local education agencies (LEA's) for the costs of educating handicapped children. The variety among SEA reimbursement systems makes for considerable variety in the financial data available to the SEA's. Naturally, if the State does not reimburse the LEA's for particular extra services for the handicapped (psychologists and social workers, transportation, or services either in addition to or part of the regular State reimbursement), the SEA administrative system will not provide this data.

2. In many SEA's, general education and special education statistical record systems were organizationally separate. In some of those SEA's, the program accounts for special education for the handicapped and for general education utilized different cost categories, making excess cost inferences uncertain.

3. Some SEA's did not collect from LEA's the necessary data to determine excess cost. Two SEA's visited reported "policy" or specific State legislation which does not permit the "labeling" of handicapped children in traditional ways. As a consequence, one State did not report cost data for any of the 13 handicapping conditions specified by the Select Subcommittee. The other State felt that it might be unable to do so in the future.

4. In only one State did all State agencies have a joint data collection system to identify all children served.

5. "Prevalence" estimates of handicapping conditions in the school-aged population used by each State varied widely. They ranged from an estimate of 4.7 percent of all pupils in State B to 17.6 percent of all pupils in State F. It is assumed that differences in the methods used to estimate the number of handicapped pupils accounted for the majority of this range.

D. Special limitation of this study.

1. Many handicapped, especially the speech impaired, were in instructional situations that make allocation of costs difficult; e.g., speech-impaired pupils in regular classrooms spent only a small proportion of the school day with speech therapists. No "model" was available to allocate any of the costs of the instruction received in regular classrooms by the speech impaired to education of the handicapped.

   Speech-impaired pupils were very common among the handicapped pupils and the cost structure for their instruction was the lowest among all of the handicapping conditions. As a consequence, costs of instruction per handicapped pupil were very different when the speech-impaired were included in the computation compared with when they were excluded. However, it is expected that similar allocation problems will occur with programs for children with specific learning disabilities or other handicapped children who spend some part of their day mainstreamed into regular programs. As "mainstreaming" becomes common in delivering services to handicapped children, the allocation of costs will become more complex.

E. Structure of excess cost.

1. No recommended structure of excess costs is made here because the data available (those which the SEA's had available) were too narrow to form the basis of an empirical analysis of excess costs. Without

STATE-BY-STATE SUMMARY OF PREVALENCE ESTIMATES AND COSTS OF EDUCATING HANDICAPPED PUPILS

State	Expenditure per regular pupil (a)	Expenditure per handicapped pupil (b)	Expenditure per speech-impaired pupil (c)	Expenditure per handicapped excluding speech impaired (d)	Total estimate of handicapped pupils (e)	Percent of school-aged population estimated to be handicapped (f)	Number of handicapped pupils receiving service (g)	Percent of total handicapped pupils served (g/e)	Excess costs reported by States b-a, d-a	Per-pupil cost ratios b/a, d/a
A	$ 551	$ 303	$ 78	$ 836	130,250	10.6%	75,240	58	$ -248 $ 285	0.55 1.52
B	464	506	82	928	30,928	4.7%	30,928	100	42 464	1.09 2.00
C *	1,065	875	237	2,243	90,428	10.16%	61,411	68	-124 1,244	.88 2.24
D	669	866	185	1,236	93,997	10.14%	77,039	82	197 567	1.29 1.84
E	751	—	—	1,272	—	—	91,644	—	521	1.69
F	530	394	139	528	204,486	17.6%	81,505	40	-136 -2	.74 .99
G	743	709	147	1,337	—	—	157,853	—	-34 594	.95 1.80
H	458	616	150	911	25,559	6.2%	16,172	63	158 453	1.34 1.98

** Five special program categories: column (b) average of five programs; column (c) least expensive; column (d) most expensive.*

a suitable data base, this task was unfeasible. It is suggested, based on experience with available State data, that a thorough analysis of alternative funding strategies for educating the handicapped be carried out on a theoretical or model basis, with resources adequate to the Subcommittee's priority on this area. The problems of developing data on which to base a funding strategy are discussed on page 25 of this report. It is felt that a one-time, special survey of existing State data will not provide satisfactory data for developing a formula precisely because the States do not have comparable information on special education.

2. Even the best of models of cost structures is sterile if the SEA's cannot supply the data required by the model at all, or without great cost. The current phase of the Common Core of Data feasibility study in NCES will provide information on the records in each State surveyed (including the kinds of data needed for this investigation as well as for most other high-priority Federal statistical needs in education) and State estimates of what it would cost to implement various levels of common program accounting.

3. As a direct result of the study team's field experience, NCES has proposed for FY 1976 funding (as one of its series on standard recordkeeping for SEA's and LEA's) development of an implementation handbook for recordkeeping on education of the handicapped. While such a handbook is only informative, it will signify to special education authorities in the SEA's that considerable progress has been made in standardizing terminology pertaining to the handicapped. The handbook will codify, from the eight existing handbooks, all pertinent terminology and definitions and will illustrate (for special and general education) standard methods of keeping records to permit calculation of excess costs. It will also serve other planning and management purposes.

ASSESSMENT OF DATA FROM NINE STATE EDUCATION AGENCIES ON COSTS OF EDUCATING HANDICAPPED PUPILS

It was found that only part of the data sought on the numbers and costs of educating handicapped pupils could be provided by any of the nine surveyed States. Much of the information provided was estimated rather than actual verifiable data, and the data provided were not comparable from State to State. Therefore, it is not possible, with existing data in SEA's, to make a national estimate of the "excess cost" of educating handicapped children. The following are the major types of problems encountered:

A. **Unavailable data.**

In many cases, data were not available as actual numbers collected directly through local, State, or other information systems. Where actual data were not available, they were (1) obtained through special collections for this survey, (2) were estimated by proration or some other method, or (3) were not collected and could not be meaningfully estimated and, therefore, were not reported on the questionnaire. In several States, data available on basic records from the LEA's were not being utilized because resources were not available to put the data from the records on the computer and tabulate them.

B. **Noncomparable data.**

The categories used to report data on disability types and personnel, and on other sources of costs, differed from State to State, thus making comparison and aggregation across States difficult.

C. **Data on handicapped and nonhandicapped combined.**

In several cases, costs for nonhandicapped pupils could not be separated from those for handicapped pupils. It was particularly difficult for some States to distinguish transportation costs. Also, in some States, education for the handicapped was the administrative responsibility of units whose missions included nonhandicapped students receiving special services. Available data reflected the workload of the special services unit rather than statistics on handicapping per se.

D. **Data not specified by disability type.**

In many instances, data were not available by type of disability. Specialists such as social workers, speech therapists, psychologists, and administrators served more than one type of handicap, and their time could not be apportioned among disability types.

E. **Data based on hypothetical prevalence.**

Data on total numbers of handicapped pupils and of pupils not served were, in many States, determined by application of hypothetical prevalence rates.

The following are some of the problems encountered in collecting the data for each State that completed the questionnaire or for which information was available:

STATE A

A. Data not available in record system

1. All data reported were for cost of instruction with no breakouts for salaries, fringe benefits, administrative costs, or materials and supplies.

2. No data reported for social workers or paraprofessionals.

B. Variation in reporting categories

1. Blind included with partially sighted.

2. Deaf included with hard of hearing.

3. Other health impaired (OHI) included with multiple handicapped.

C. Costs for nonhandicapped included with handicapped

D. Costs not available by disability

1. Psychologist and administrative costs not available by disability.

2. Reimbursement costs were payments from one LEA to another; no costs from State institutions shown as reported.

E. Use of prevalence rates

Standard prevalence rates for each handicapping condition were apparently applied to the total school population to determine the number of children needing service.

STATE B

A. Data not available in record system

1. No State survey of administrative salaries (including fringe benefits) or material and supply costs.

2. Teacher aides not differentiated by type of duty; number of teacher aides for the handicapped could not be estimated.

B. Variation in reporting categories

1. Partially sighted and blind reported as one category: visually handicapped.

2. Orthopedically handicapped reported as classes for the crippled.

3. Multiple handicapped included only four deaf-blind students in out-of-State institutions.

4. OHI reported as "home, home and hospital, and hospital instruction."

C. Costs for nonhandicapped included with handicapped

1. Social workers served all pupils; effort for handicapped estimated at 10 percent of total.

2. Transportation costs not broken down by type of handicapped pupil.

D. Data not available by disability

Data for speech therapists, psychologists, and administrative staff not available by disability.

E. Use of prevalence rates

1. State aid did not use prevalence rate on this form and did not report any children diagnosed as handicapped but unserved.

2. Total number of handicapped pupils reported did not include number of students provided instruction in State Department of Mental Health institutions.

STATE C

This State did not fill out questionnaire, since its categories for data collection were incompatible with the categories in the forms. It did provide the most current data on the operation of its special education program, except that it had no cost data in the form requested by the Subcommittee. As a result no cost data sheet for State C is presented in the following section.

Data on LEA expenditures for special education and State reimbursement are reported by LEA for five types of programs: 1) severely handicapped self-contained classes, 2) severely handicapped resource rooms, 3) educable self-contained classes, 4) educable resource rooms, and 5) itinerant services. No breakouts were available by disability or for various types of expenses (administrative, materials, psychological services, etc.) but average teacher salaries by program were given.

Although only 6.89 percent of children in State C were identified as handicapped and receiving service, individual school districts varied from a high of 14.85 percent to a low of 3.04 percent, a 500-percent variance.

A consultant to the State developed a prevalence rate and estimated that 10.16 percent of the school population was in need of a program. Special audits of the school districts in the State will determine whether these new methods of tracking services to handicapped children provide adequate controls on LEA's.

STATE D

A. Data not available in State record system

1. Transportation and reimbursed costs provided from a special data collection for this study.

2. Local expenditures for clerks and some paraprofessionals not available and could not be estimated; therefore, they were omitted from the cost figures.

B. Variation in reporting categories

1. Emotionally disturbed and learning disabled reported as one category.

2. Hard of hearing and deaf reported as one category and State could not separate them.

3. Partially sighted and blind reported as one category and State could not separate them.

C. Costs for nonhandicapped included with handicapped

Social workers, administratively part of the unit serving handicapped pupils, also served behavior problem pupils, pregnant minors, and other special students not handicapped. Time devoted to serving handicapped not separable from that devoted to nonhandicapped.

D. Costs not available by disability

Data on numbers and salaries of speech therapists, psychologists, and special education administrative staff not available by disability area.

E. Use of prevalence rates

Total number of handicapped pupils determined by applying a prevalence rate of 10.14 percent to total number of pupils. Condition-specific prevalence rates used for each type of disability. Number of pupils not served obtained by subtracting the actual number of pupils served from the estimated total number of handicapped pupils for each disability.

STATE E

A. Data not available in record systems

1. Total number of teachers of handicapped pupils was an estimate, although the information was available to the SEA. Programing cost to retrieve this datum was excessive.
2. No records available on occupational and physical therapists.
3. No data on paraprofessionals assigned to education of the handicapped.
4. Transportation, special supplies, and materials and equipment costs for the handicapped not available.
5. Reimbursed costs not available.
6. Teacher data for severe/profoundly retarded and specific-learning disabled pupils not available.

B. Variation in reporting categories

1. Deaf and hard of hearing combined as one category.
2. Partially sighted and blind combined as one category.
3. Multiply handicapped included with "other health impaired," which also included cerebral palsied and brain-damaged children.

C. Costs for nonhandicapped included with handicapped

1. Psychologists' and social workers' time not separated for handicapped and nonhandicapped pupils.
2. About $150,000,000 for salaries of "other professional staff serving the handicapped" not separated for handicapped and nonhandicapped pupils. The category included counselors ($97 million) and nurses ($28 million).
3. Somewhat more than $6.3 million for salaries of pupil personnel services and administrators not separated for handicapped and nonhandicapped pupils.

D. Data not available by disability

1. Data for social workers and psychologists not available by disability.
2. Limited data by disability on administrators and "other professional staff serving the handicapped."

E. Use of prevalence rates

No prevalence data available from the SEA.

STATE F

A. Data not available in record system

1. Except for the trainable retarded and for transportation accounts, all data reported derived from proration and other estimation procedures utilizing data from secondary sources; i.e., the SEA did not maintain a statistical or administrative reporting system for staffing and education costs for the handicapped.

2. "Teacher" in the reports on staff working with the handicapped included (in addition to teachers) counselors, librarians, speech therapists, etc.—everyone stationed in a school and working with children, except administrators and supervisors. In one staff report, however, "teacher" did include school principals.

B. Variation in reporting categories

1. Hard of hearing and deaf combined as "hearing impaired."

2. Partially sighted and blind combined as "visually impaired."

3. "Other health impaired" limited to the home-bound and hospitalized.

C. Costs for nonhandicapped included with handicapped

1. Supplies were an account for all pupils.

2. Psychologists' salaries available for all pupils, but not separately for handicapped pupils.

3. Two transportation accounts: one for handicapped pupils only (for transportation for handicapped pupils), the other for both handicapped and nonhandicapped pupils.

D. Data not available by disability

Staff salaries and numbers not available by disability.

E. Use of prevalence rates

Some of the prevalence rates reported were BEH estimates; the others were SEA estimates: no empirical data existed. However, at the time of this survey, the SEA was seeking funds for a statewide census of the handicapped. Also, in 1974, the State employed 60 psychologists deployed regionally, working with the schools, and expected to add an additional 100 in 1975. The 160 psychologists were expected to increase the number of handicapped children reported to the State.

STATE G

A. Data not available in State record system

1. Data on transportation costs for handicapped pupils and for salaries for social workers and physical therapists not available for school districts (available only for intermediate units).[*]

2. Costs for gifted included with costs for handicapped in district data. Costs for gifted removed from district data by proration using proportion of gifted to handicapped costs in intermediate units.

3. Cost data not available for State-operated special schools for the handicapped.

4. Data not available for total number of handicapped pupils, only for pupils served.

B. Variation in reporting categories

1. Hard of hearing and deaf combined in one category.

2. Partially sighted and blind in one category.

3. No category to report multiple handicapped.

4. Intermediate unit form contained a category for "therapists"; it was assumed that it represented physical therapists since they were listed among other medical categories.

C. Costs for nonhandicapped included with handicapped

Special education teachers' salaries combined with salaries for "other professional staff."

D. Costs not available by disability

1. District record does not break out costs by disability.

2. Salaries for special education staff not separated by disability.

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[*] This State had separate records for intermediate units (often comprising several school districts and responsible for a variety of special services) and school districts.

STATE H

A. Data not available in State record system

1. Salary figures for special education staff, other than those for the mentally retarded, were calculated by using average salary for all teachers.

2. Number of paraprofessional staff for trainable mentally retarded, emotionally disturbed, hard of hearing, partially sighted, and orthopedically handicapped was determined by assuming each teacher for these groups had an aide.

3. Costs for special supplies, materials, and equipment were determined for only 150 new classes out of 768 special education classes. Costs for these 150 classes were determined by using as an estimate the amount remaining from teacher salary block grants to districts. The average amount not used for salaries (estimated for supplies, etc.) was $1,127 per district.

4. Transportation costs were estimated from per-pupil average costs of $66.44.

5. Costs for contracted services for diagnosis and testing were not available and could not be estimated.

B. Variation in reporting categories

No separate category for multiply handicapped.

C. Costs for nonhandicapped included with handicapped (no problems reported)

D. Costs not available by disability

Data on number and salaries of speech therapists, psychologists, and special education administrative staff were not available by disability area.

STATE SUMMARIES OF COSTS OF EDUCATING HANDICAPPED PUPILS

Cost data on educating handicapped pupils collected from the survey are presented in State summary tables below. The costs of educating handicapped pupils were considered to be:

- special education teacher salaries
- administrator salaries
- specialist salaries
- salaries of paraprofessionals assisting special education teachers and specialists
- special transportation costs
- costs for special supplies, materials, and equipment
- reimbursed costs (tuition, room and board, etc.)

To compare costs for the handicapped with those for regular pupils, the following items were collected for regular instruction:

- teacher salaries
- professional support staff salaries (other than for the handicapped)
- administrator salaries
- paraprofessional salaries
- transportation costs

A problem arises in assessing costs of educating handicapped pupils—differentiating special (excess) costs for instructing the handicapped from the costs for the proportion of time that handicapped pupils receive regular instruction. Thus, some types of handicapped pupils, in particular the speech impaired, typically spend most of their time receiving instruction by regular teachers in regular classes, augmented by special instruction in resource rooms by special teachers or other specialists. Others, such as the severely retarded, usually receive all of their instruction in special classes or institutions for which all associated costs can be considered to be special or excess.

The problem comes down to determining how much of a handicapped pupil's time is spent in regular and in special instruction and what is the cost of the regular and of the special instruction.

In calculating per-pupil cost for the handicapped, the problem can be approached in two different ways:

(1) Include costs of both special instruction and regular instruction for the handicapped in the numerator and include total number of handicapped pupils in the denominator:

$$\frac{\text{Total instructional costs for the handicapped (special plus regular)}}{\text{Total number of handicapped pupils.}}$$

(2) Include only costs of special instruction in the numerator and place full-time equivalent (FTE) of handicapped pupils in denominator:

$$\frac{\text{Costs of special instruction}}{\text{FTE of pupils in special education.}}$$

What is required for (1) is a figure for total instructional costs for handicapped in the numerator. To do this, it is necessary first to determine the costs of regular instruction of the handicapped. In theory, this could be done by determining an FTE of handicapped pupils in regular instruction and multiplying by the per-pupil costs for regular pupils. What is required for (2) is an FTE of the number of handicapped pupils receiving special instruction.

Data are not available from this survey in any State to make precise estimates of either of the FTE figures so that neither per-pupil figure (1) nor (2) can be precisely calculated. It is possible, however, to make an approximation of these figures by assuming that speech impaired spend most of their time (all of their time for purposes of calculation) in regular instruction.

In example (1) above this means multiplying the number of speech impaired by the per-pupil expenditure for regular pupils to obtain the cost of regular instruction for the handicapped (speech impaired). This is then added to the cost of special instruction and divided by the number of handicapped pupils. This figure, when compared with the cost of instruction per regular pupil, will provide an approximation of excess cost. This, in a sense, will be a minimum (excess cost) figure as it does not include in the numerator the cost of regular instruction for those "mainstreamed" handicapped pupils other than speech impaired.

To obtain an approximation from the present data, using example (2) above, the number of speech-impaired pupils is removed from the denominator and the special instruction costs (speech therapist salaries) are removed from the numerator.

For the State summary cost sheets, example (2) is followed and the following figures are presented:

- per-pupil cost of regular pupils
- per-pupil cost of handicapped pupils, including speech impaired
- per-pupil cost of speech impaired only (presumed to be excess cost)
- per-pupil cost of handicapped pupils excluding speech impaired

Approximations of excess cost can be obtained by subtracting (a) from (b) and (a) from (d) (column 9 of the introduction summary table). Ratios of costs of regular instruction to instruction of the handicapped can be obtained by b/a and d/a (far right hand column of the introduction summary table).

It must be noted that some of the following summaries present cost of instruction, while others present only salary data. Therefore, the ratio of costs probably represents a more accurate picture of costs for interstate comparison than do the actual expenditure per-pupil figures.

STATE A

SPECIAL EDUCATION	Dollars
COSTS OF INSTRUCTION	
SPECIAL INSTRUCTION	$ 13,631,843
SPEECH THERAPY	4,151,280
PSYCHOLOGICAL SERVICES	1,701,636
SOCIAL WORKERS	NA
EDUCATIONAL DIAGNOSTICIANS	NA
OCCUPATIONAL THERAPY	51,061
PHYSICAL THERAPY	105,619
ADMINISTRATION	962,500
OTHER PROFESSIONALS	NA
PARAPROFESSIONALS	NA
FRINGE BENEFITS	NA
SUBTOTAL	20,603,939
TRANSPORTATION	2,162,503
SPECIAL SUPPLIES, MATERIALS, EQUIPMENT	1/
REIMBURSED COSTS (TUITION, ROOM AND BOARD, ETC.)	NA
SUBTOTAL	2,162,503
TOTAL COSTS	22,766,442

	No. of Pupils
TOTAL HANDICAPPED PUPILS	130,250
RECEIVING SERVICES	75,240
NOT RECEIVING SERVICES	55,010

	Percent
PERCENT HANDICAPPED PUPILS OF ALL PUPILS	10.6
PERCENT HANDICAPPED PUPILS SERVED OF ALL PUPILS	6.2
PERCENT HANDICAPPED PUPILS SERVED OF ALL HANDICAPPED PUPILS	57.8

	Dollars
COST PER HANDICAPPED PUPIL	$ 303
TOTAL COST EXCLUDING SPEECH IMPAIRED	18,615,162
NUMBER OF PUPILS SERVED EXCLUDING SPEECH IMPAIRED	22,280
COST PER PUPIL EXCLUDING SPEECH IMPAIRED	836
COST PER SPEECH-IMPAIRED PUPIL	78
REGULAR EDUCATION	
COST OF INSTRUCTION	630,609,047
TRANSPORTATION	41,831,669
TOTAL COSTS	672,440,716
TOTAL REGULAR PUPILS	(No. of Pupils: 1,220,843)
COST PER REGULAR PUPIL	551

1/ *Included in "costs of instruction."*

NA- Not available.

STATE B

SPECIAL EDUCATION

	Dollars
SALARIES	
TEACHERS	
SPEECH THERAPISTS	$ 11,311,449
PSYCHOLOGISTS	1,233,008
SOCIAL WORKERS	158,582
EDUCATIONAL DIAGNOSTICIANS	87,848
OCCUPATIONAL THERAPISTS	NA
PHYSICAL THERAPISTS	NA
ADMINISTRATORS	NA
OTHER PROFESSIONALS	110,783
PARAPROFESSIONALS	NA
FRINGE BENEFITS	NA
	NA
SUBTOTAL	12,901,670
TRANSPORTATION	
SPECIAL SUPPLIES, MATERIALS, EQUIPMENT	2,389,656
REIMBURSED COSTS (TUITION, ROOM AND BOARD, ETC.)	NA
	372,498
SUBTOTAL	2,762,154
TOTAL COSTS	15,663,824

	No. of Pupils
TOTAL HANDICAPPED PUPILS	
RECEIVING SERVICES	30,928
NOT RECEIVING SERVICES	30,928
	—

	Percent
PERCENT HANDICAPPED PUPILS OF ALL PUPILS	
PERCENT HANDICAPPED PUPILS SERVED OF ALL PUPILS	4.7
PERCENT HANDICAPPED PUPILS SERVED OF ALL HANDICAPPED PUPILS	4.7
	100.0

	Dollars
COST PER HANDICAPPED PUPIL	$ 506
TOTAL COST EXCLUDING SPEECH IMPAIRED	14,400,616
NUMBER OF PUPILS SERVED EXCLUDING SPEECH IMPAIRED	15,510
COST PER PUPIL EXCLUDING SPEECH IMPAIRED	928
COST PER SPEECH-IMPAIRED PUPIL	82

REGULAR EDUCATION

SALARIES	
FRINGE BENEFITS	283,882,487
	NA
TRANSPORTATION	21,506,912
TOTAL COSTS	305,389,399
TOTAL REGULAR PUPILS	(No. of Pupils: 657,906)
COST PER REGULAR PUPIL	464

NA: Not available.

STATE D

SPECIAL EDUCATION

	Dollars
SALARIES	
TEACHERS	$ 33,768,392
SPEECH THERAPISTS	4,691,412
PSYCHOLOGISTS	2,276,447
SOCIAL WORKERS	3,310,263
EDUCATIONAL DIAGNOSTICIANS	NA
OCCUPATIONAL THERAPISTS	59,109
PHYSICAL THERAPISTS	128,391
ADMINISTRATORS	2,484,967
OTHER PROFESSIONALS	1,911,600
PARAPROFESSIONALS	5,720,902
FRINGE BENEFITS	
SUBTOTAL	55,293,571
TRANSPORTATION	2,483,710
SPECIAL SUPPLIES, MATERIALS, EQUIPMENT	1,338,040
REIMBURSED COSTS (TUITION, ROOM AND BOARD, ETC.)	7,620,961
SUBTOTAL	11,442,711
TOTAL COSTS	66,736,282

	No. of Pupils
TOTAL HANDICAPPED PUPILS	93,997 1/
RECEIVING SERVICES	77,039
NOT RECEIVING SERVICES	16,958

	Percent
PERCENT HANDICAPPED PUPILS OF ALL PUPILS	10.1 2/
PERCENT HANDICAPPED PUPILS SERVED OF ALL PUPILS	8.3
PERCENT HANDICAPPED PUPILS SERVED OF ALL HANDICAPPED PUPILS	81.9

	Dollars
COST PER HANDICAPPED PUPIL	$ 866
TOTAL COST EXCLUDING SPEECH IMPAIRED	61,725,554
NUMBER OF PUPILS SERVED EXCLUDING SPEECH IMPAIRED	49,948
COST PER PUPIL EXCLUDING SPEECH IMPAIRED	1,236
COST PER SPEECH-IMPAIRED PUPIL	185

REGULAR EDUCATION

SALARIES	514,213,880
FRINGE BENEFITS	61,703,660
TRANSPORTATION	44,547,360
TOTAL COSTS	620,464,900
TOTAL REGULAR PUPILS (No. of Pupils:	926,992
COST PER REGULAR PUPIL	669

1/ *Estimated from prevalence rate.*

2/ *Estimated prevalence rate.*

NA: Not applicable (state had no educational diagnosticians).

STATE E

SPECIAL EDUCATION	
SALARIES	*Dollars*
TEACHERS	$100,443,128
SPEECH THERAPISTS	13,713,896
PSYCHOLOGISTS	*
SOCIAL WORKERS	*
EDUCATIONAL DIAGNOSTICIANS	NA
OCCUPATIONAL THERAPISTS	NA
PHYSICAL THERAPISTS	NA
ADMINISTRATORS	16,092,000**
OTHER PROFESSIONALS	*
PARAPROFESSIONALS	NA
FRINGE BENEFITS	NA
SUBTOTAL	130,249,024
TRANSPORTATION	NA
SPECIAL SUPPLIES, MATERIALS, EQUIPMENT	NA
REIMBURSED COSTS (TUITION, ROOM AND BOARD, ETC.)	NA
SUBTOTAL	—
TOTAL COSTS	130,249,024***
	No. of Pupils
TOTAL HANDICAPPED PUPILS	NA
RECEIVING SERVICES	91,644****
NOT RECEIVING SERVICES	NA
	Percent
PERCENT HANDICAPPED PUPILS OF ALL PUPILS	NA
PERCENT HANDICAPPED PUPILS SERVED OF ALL PUPILS	NA
PERCENT HANDICAPPED PUPILS SERVED OF ALL HANDICAPPED PUPILS	NA
	Dollars
COST PER HANDICAPPED PUPIL	NA
TOTAL COST EXCLUDING SPEECH IMPAIRED	$116,535,128
NUMBER OF PUPILS SERVED EXCLUDING SPEECH IMPAIRED	91,644
COST PER PUPIL EXCLUDING SPEECH IMPAIRED	1,272
REGULAR EDUCATION	
SALARIES	2,555,966,758
FRINGE BENEFITS	NA
TRANSPORTATION	NA
TOTAL COSTS	2,555,966,758
TOTAL REGULAR PUPILS	(No. of Pupils: 3,403,161)
COST PER REGULAR PUPIL	781*****

**Cannot be approximated for the handicapped; only a total salary figure is available and is not included in this report.*

***Includes $6,336,000 for Pupil Personnel Services administrators serving both handicapped and nonhandicapped pupils (and not prorated).*

****Includes $13,713,896 for speech-impaired pupils not included in the per-pupil excess cost.*

*****Does not include speech-impaired students for whom data were not collected in 1972-73.*

******Salary data and costs limited to the same personnel categories for which salary data for handicapped staff were reported. Total operating expenditures reported by SEA for 1972-73 were $4.3 billion and were $1,324 on a per-pupil basis.*

NA: Not available.

STATE F

SPECIAL EDUCATION

SALARIES	*Dollars*
TEACHERS, COUNSELORS, AND SPEECH THERAPISTS	$ 29,132,538
PSYCHOLOGISTS	390,000
SOCIAL WORKERS	NA
EDUCATIONAL DIAGNOSTICIANS	NA
OCCUPATIONAL THERAPISTS	NA
PHYSICAL THERAPISTS	NA
ADMINISTRATORS	570,000
OTHER PROFESSIONALS	NA
PARAPROFESSIONALS	1,054,025
FRINGE BENEFITS	NA
SUBTOTAL	31,146,563
TRANSPORTATION	985,000
SPECIAL SUPPLIES, MATERIALS, EQUIPMENT	NA
REIMBURSED COSTS (TUITION, ROOM AND BOARD, ETC.)	NA
SUBTOTAL	985,000
TOTAL COSTS	32,131,563
	No. of Pupils
TOTAL HANDICAPPED PUPILS	204,486
RECEIVING SERVICES	81,505
NOT RECEIVING SERVICES	122,981
	Percent
PERCENT HANDICAPPED PUPILS OF ALL PUPILS	17.6
PERCENT HANDICAPPED PUPILS SERVED OF ALL PUPILS	7.0
PERCENT HANDICAPPED PUPILS SERVED OF ALL HANDICAPPED PUPILS	39.8
	Dollars
COST PER HANDICAPPED PUPIL	$ 394
TOTAL COST EXCLUDING SPEECH IMPAIRED	28,234,322
NUMBER OF PUPILS SERVED EXCLUDING SPEECH IMPAIRED	53,456
COST PER PUPIL EXCLUDING SPEECH IMPAIRED	528
COST PER SPEECH-IMPAIRED PUPIL	139

REGULAR EDUCATION

SALARIES FRINGE BENEFITS	{587,088,658}
TRANSPORTATION	28,969,997
TOTAL COSTS	616,058,655
TOTAL REGULAR PUPILS	(No. of Pupils: 1,161,326)
COST PER REGULAR PUPIL	530

NA: Not available.

STATE G

SPECIAL EDUCATION

SALARIES

	Dollars
TEACHERS	
SPEECH THERAPISTS	$ 72,670,267
PSYCHOLOGISTS	NA
SOCIAL WORKERS	3,845,580
EDUCATIONAL DIAGNOSTICIANS	469,825
OCCUPATIONAL THERAPISTS	NA
PHYSICAL THERAPISTS	NA
ADMINISTRATORS	252,164
OTHER PROFESSIONALS	5,803,855
PARAPROFESSIONALS	200,846
FRINGE BENEFITS	11,131,433
	9,374,265
SUBTOTAL	103,748,235
TRANSPORTATION	
SPECIAL SUPPLIES, MATERIALS, EQUIPMENT	5,000,176
REIMBURSED COSTS (TUITION, ROOM AND BOARD, ETC.)	4,470,521
	777,961
SUBTOTAL	10,248,658
	113,996,893 1/
TOTAL COSTS	111,979,651 2/

	No. of Pupils
TOTAL HANDICAPPED PUPILS	
RECEIVING SERVICES	NA
NOT RECEIVING SERVICES	157,853
	NA

	Percent	
PERCENT HANDICAPPED PUPILS OF ALL PUPILS	NA	
PERCENT HANDICAPPED PUPILS SERVED OF ALL PUPILS		7
PERCENT HANDICAPPED PUPILS SERVED OF ALL HANDICAPPED PUPILS	NA	

	Dollars
COST PER HANDICAPPED PUPIL	$ 709
TOTAL COST EXCLUDING SPEECH IMPAIRED	99,714,181
NUMBER OF PUPILS SERVED EXCLUDING SPEECH IMPAIRED	74,557
COST PER PUPIL EXCLUDING SPEECH IMPAIRED	1,337
COST PER SPEECH-IMPAIRED PUPIL	147

REGULAR EDUCATION

SALARIES	1,537,523,000 3/
FRINGE BENEFITS	NA
TRANSPORTATION	87,978,000
TOTAL COSTS	1,625,501,000
TOTAL REGULAR PUPILS	(No. of Pupils: 2,188,000) 4/
COST PER REGULAR PUPIL	743

1/ *Includes district costs for gifted.*

2/ *Excludes district costs for gifted by proration.*

3/ *Data on costs for regular education obtained from* *Expenditures for Public Elementary and Secondary Education* *1971-72, table 1, page 9, (OE) 74-11407.*

4/ *Data on regular pupils obtained from* *Expenditures for Public Elementary and Secondary Education* *1971-72, table 5, page 13, (OE) 74-11407.*

NA: Not available.

STATE H

SPECIAL EDUCATION	Dollars
SALARIES	
TEACHERS	$ 5,214,880
SPEECH THERAPISTS	834,100
PSYCHOLOGISTS	164,265
SOCIAL WORKERS	201,330
EDUCATIONAL DIAGNOSTICIANS	NA
OCCUPATIONAL THERAPISTS	NA
PHYSICAL THERAPISTS	NA
ADMINISTRATORS	382,059
OTHER PROFESSIONALS	NA
PARAPROFESSIONALS	352,592
FRINGE BENEFITS	857,907
SUBTOTAL	8,007,133
TRANSPORTATION	583,560
SPECIAL SUPPLIES, MATERIALS, EQUIPMENT	198,930
REIMBURSED COSTS (TUITION, ROOM AND BOARD, ETC.)	1,164,653
SUBTOTAL	1,947,143
TOTAL COSTS	9,954,276

	No. of Pupils
TOTAL HANDICAPPED PUPILS	25,559
RECEIVING SERVICES	16,172
NOT RECEIVING SERVICES	9,387

	Percent
PERCENT HANDICAPPED PUPILS OF ALL PUPILS	6.2
PERCENT HANDICAPPED PUPILS SERVED OF ALL PUPILS	3.9
PERCENT HANDICAPPED PUPILS SERVED OF ALL HANDICAPPED PUPILS	63.3

	Dollars
COST PER HANDICAPPED PUPIL	$ 616
TOTAL COST EXCLUDING SPEECH IMPAIRED	9,010,084
NUMBER OF PUPILS SERVED EXCLUDING SPEECH IMPAIRED	9,888
COST PER PUPIL EXCLUDING SPEECH IMPAIRED	911
COST PER SPEECH-IMPAIRED PUPIL	150
REGULAR EDUCATION	
SALARIES	160,530,886
FRINGE BENEFITS	NA
TRANSPORTATION	27,232,560
TOTAL COSTS	187,763,446
TOTAL REGULAR PUPILS	(No. of Pupils: 409,882)
COST PER REGULAR PUPIL	458

NA: Not available.

A UNIFORM DATA SYSTEM FOR ANALYSIS OF EXCESS COSTS OF EDUCATING HANDICAPPED CHILDREN

Nationally uniform data (now unavailable) are necessary for computation of excess costs of educating handicapped children and could come from either a special survey or an as yet undeveloped national statistical survey. A one-time, special survey of existing State data, widely suggested but not now under active consideration, will not provide satisfactory data precisely because the States do not have comparable statistical systems for special education. As documented in this report, State data systems vary significantly; some systems for collecting the kinds of data relevant to this task are very undeveloped.

Development of a nationally uniform system must overcome these fundamental problems:

- identification of children as handicapped and therefore eligible for service must be consonant with a resolution of the controversies surrounding labeling and diagnosis (these problems are interrelated and neither is close to resolution);
- provision of data (by the statistical system) that clearly separates services for handicapped children from services provided children receiving special services for other reasons; e.g., delinquency, gifted or talented, pregnancy, etc. (overlap among these groups and the handicapped further compounds this problem);
- comparability of financial records for education of the handicapped provided by the statistical system with records kept for education of nonhandicapped children;
- commensurability of cost of developing and operating the statistical system with financial resources available to the Federal Government and to the States that want the data.

Three kinds of proposals have been advanced for such a nationally uniform statistical system: a student unit record system, program accounting for the education of the handicapped, and general purpose statistical systems providing partial data. Each of these is discussed in turn.

Student unit record system: Such systems have been proposed to get annual reports on the number of handicapped children receiving services or to get estimates of the number of children requiring services.

All but one of the proposals for such a student-based unit record system seek either the derivation of prevalence rates for the handicapped or the introduction of a national diagnostic program to uncover all handicapped children in the public schools, especially those children not administratively designated as handicapped. Only one of these proposals seeks the collection of the financial data required for an excess cost analysis. The exceptional proposal, a system submitted to the State of Illinois, is sufficiently unconventional to require extensive testing to relate its concepts to more conventional cost categories. Also, all systems based upon pupil unit record systems are exceedingly expensive.

The one existing student unit record system implemented at the State level is now undergoing extensive auditing to assess its reliability. While indications are that this system is effective in reimbursing LEA's for programs benefiting handicapped children, there are only 26 units reporting information to the SEA, and its usefulness may be due to that factor alone. In addition, the elimination of traditional categories of classifying handicapped children in this system (this reduces the number of data elements collected) would preclude its adoption on a national scale or its use as the basis of an excess-cost model until substantive consensus on labeling and diagnosis problems has been reached.

In the short run, this approach to developing an excess-cost model for the handicapped is probably unfeasible, in view of (1) the large number of pupils in over 16,000 LEA's (if a national system is contemplated), and (2) the extensive development costs of data-collection instruments that could produce results with known and acceptable reliability and validity.

Program accounting systems: If States and LEA's kept careful program accounts for education of the handicapped, including the necessary financial data,[*] the basic data for an excess cost analysis would be immediately available. In several months the initial results from the Common Core of Data assessment will be available, and more precise estimates on implementation costs for 10 or more States can be made available to the Subcommittee. At this time, it appears that most financial and staff data are generally available, program and student data are more difficult to identify, and comparisons between any two types of data are difficult to make even within States. The director of one large State's statistical office estimated to NCES that program accounting in his State would require a full-time staff in each school in the State to collect the data and an expense of several billion dollars to install and operate. Even if this estimate is unreasonably high, it is clear that massive resources and a number of years would be required for implementation and that this method would not provide, in the near future, the information on excess costs of educating the handicapped.

Indirect systems: If student unit record systems and program accounting are exceedingly expensive and require considerable development and implementation costs, some kind of indirect approach, producing at relatively low cost reliable data for approximating excess costs, may be feasible.

The limitations of indirect systems are that they assume much about the structure of excess costs and may not identify every cost element of educating handicapped children. However, a federally initiated indirect collection system would have the following advantages:

- It is amenable to national standardization and comparability.
- It is most probably acceptable to the States and localities as a modification of the current statistical program maintained by many of them.
- Its development costs and operation are relatively low, even in providing State-by-State estimates.
- In addition to the data on education of the handicapped, it would be possible, at the same time and at very little marginal cost, to acquire identical program data for any or all other programs: bilingual education, compensatory education, vocational education, and even such specialties as art and music. As a result, the cost of data for any one program (e.g., handicapped education) would be relatively small.

If it is accepted that sal[illegible]nstitute the major portion of expenditures for education of the handicapped and that adequate informatio[illegible]vailable for developing distribution formulas, then a survey could be developed of teachers and other professional staff, and relevant nonprofessionals to obtain salary data and data on assignment(s) and the special student groups with which they work. This general type of survey was used by New York State and Kentucky to provide data for this special nine-State survey. Developing, implementing, and operating such a biennial staff survey would require an estimated $500,000 annually at current costs. However, such a survey would provide only a portion of the information requested by the Subcommittee; and as additional types of information (currently not collected by States) are sought, cost estimates increase rapidly. In addition, an indirect survey conducted by the Federal Government would neither act as a mechanism for identifying all unserved children on a national basis nor hasten equalization of financing of education for the handicapped among the States—two primary purposes of the advocates of student unit record and program accounting systems. While these constraints are sizable, it is believed that short of nationally uniform program accounting throughout the States, such a survey would produce the best possible estimates of the excess costs of educating handicapped children.

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[*] See details in Handbook II revised, of the State Education Records and Reports Series, *Financial Accounting* (Classifications and Standard Terminology for Local and State School Systems), DHEW Publication Number (OE) 73-11800.

APPENDIX A

LETTER FROM THE COMMITTEE ON EDUCATION AND LABOR OF THE U.S. HOUSE OF REPRESENTATIVES

MAJORITY MEMBERS:
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HERMAN BADILLO, N.Y.
IKE ANDREWS, N.C.
WILLIAM LEHMAN, FLA.
JAIME BENITEZ, P.R.

CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
COMMITTEE ON EDUCATION AND LABOR
2181 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, D.C. 20515

MINORITY MEMBERS:
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RONALD A. SARASIN, CONN.
ROBERT J. HUBER, MICH.

TELEPHONES:
MAJORITY—[illegible]
MINORITY—[illegible]

March 13, 1974

Dr. John R. Ottina
Commissioner of Education
Office of Education
4181-D FOB 6
400 Maryland Avenue, S. W.
Washington, D. C. 20202

Dear Dr. Ottina:

As you know, the Select Subcommittee on Education is presently conducting hearings on H.R. 70 and related bills which would provide federal payments to cover the excess costs of educating handicapped children. In order that we might have complete and accurate information upon which the Congress can make rational and objective judgments, we would ask to use the resources of the Office of Education to provide the following information as expeditiously as possible.

QUESTIONS

A. SALARIES

1. (a) What is the average regular classroom teacher's salary (elementary and secondary) in each state?
   (b) What is the average salary for special education teachers in each state?

2. Which states pay salary differentials to special education teachers and what is the basis on which each state pays them?

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3. What are the average salaries in each of the states for each of the following categories of specialists providing instructional support to handicapped children?

   (a) speech therapists
   (b) psychologists
   (c) educational diagnosticians
   (d) social workers
   (e) physical therapists
   (f) occupational therapists
   (g) any other categories

4. (a) Which states have legislation which provides non-professional personnel (aides)?
   (b) What are the average salaries in each of the states for non-professional personnel (aides) within the special education system?

5. How does each state list categories of personnel for its special education systems and how many individuals are there in each of these categories in each state?

B. CHILDREN SERVED

1. How many children are receiving educational services in each state, regardless of the public agency providing such services (e.g. Department of Education, Department of Mental Health, Department of Welfare, etc.), in each of the following disability categories:

   (a) the severe and profoundly retarded
   (b) the trainable mentally retarded
   (c) the educable mentally retarded
   (d) hard of hearing
   (e) deaf
   (f) speech impaired
   (g) visually impaired
   (h) emotionally disturbed
   (i) learning disabled
   (j) orthopedically handicapped
   (k) multiply handicapped
   (l) other health impaired

2. In each of the states, how many handicapped children are being served in each of the following special education program components:

   (a) regular class with special consultant
   (b) regular class with itinerant teacher
   (c) resource room
   (d) part-time special education class
   (e) full-time special education class
   (f) special day school
   (g) homebound
   (h) residential school
   (i) hospital

3. In each state, how many children are not receiving educational services in each of the disability categories cited in question B-1?

C. TOTAL COSTS

1. In each state, what is the total public cost for the education of handicapped children in each of the disability categories cited in B-1?

2. In each state, what is the total public cost for the education of handicapped children in each disability category in each of the special education program components cited in question B-2?

3. In each state, what is the total public cost for the education of handicapped children for each of the disability categories in each of the following cost areas:

   (a) Instruction
      Teachers
      Teacher Aides
   (b) Instructional Support
      Support, Equipment, and Materials
      Guidance and Counseling
      Other, such as speech therapists, social works, etc.
   (c) Management
      Administration
      Clerical and Secretarial
   (d) Transportation
   (e) Services
      Health
      Food
   (f) Institutional Operations
      Operation and Maintenance
      Fringe Benefits
      Other

4. In each state, what are the total public costs for the education of non-handicapped children in each of the same cost categories cited in question C-3?

5. In each state, what is the per pupil excess cost for the education of handicapped children over the cost for the education of non-handicapped children in each of the disability categories for each of the cost categories?

6. Define excess cost for each of the disability categories in each of the states (i.e. what is the composition of that excess cost)?

7. Recommend excess cost categories and what should be the parameters of such categories?

8. Since states reimburse local school districts in many ways (unit funding, straight sum, excess cost, etc.), please detail for the Committee how each state's reimbursement mechanism works and explain whether it is possible based upon the various funding reimbursement mechanisms to determine true excess costs.

We appreciate the cooperation of the Department in this matter and offer whatever assistance that we can provide in answering these questions. Thank you.

With every best wish, we are

Sincerely yours,

John Brademas
JOHN BRADEMAS
Member of Congress

Al Quie
ALBERT H. QUIE
Member of Congress

APPENDIX B

QUESTIONNAIRE SUBMITTED TO SURVEYED STATES:

37

State________________________________

Number of persons, FTE's of total persons, and aggregate salaries of professional staff serving the handicapped in local public schools and other local and state operated facilities, school year 1972-73.

Position to be recorded in this table: SPECIAL EDUCATION TEACHERS

Secondary classification for data to be recorded in this table: NONE

Instructions: 1. Indicate by an "X" each datum not available.
2. The (unduplicated) total row below may not equal the sum of the detail.
3. Please attach to this table explanations of special circumstances necessary to interpret the data.

Type of handicapped pupil taught or served	SPECIAL EDUCATION TEACHERS			FTE's[1] of total persons (If data are available)	Aggregate expenditures for salaries
	Total persons	Full-time	Part-time		
TOTAL (Unduplicated count of persons in position)					
SEVERELY/PROFOUNDLY RETARDED					
TRAINABLE MENTALLY RETARDED					
EDUCABLE MENTALLY RETARDED					
EMOTIONALLY DISTURBED					
LEARNING DISABLED					
SPEECH IMPAIRED					
HARD OF HEARING					
DEAF					
PARTIALLY SIGHTED					
BLIND					
ORTHOPEDICALLY HANDICAPPED					
MULTIPLE HANDICAPPED					
OTHER HEALTH IMPAIRED					

1/ Full-time equivalents of total persons is the total of full-time persons and the full-time equivalents of part-time persons.

State ______________________

Number of persons, FTE's of total persons, and aggregate salaries of professional staff serving the handicapped in local public schools and other local and state operated facilities, school year 1972-73.

Position to be recorded in this table: SPECIAL EDUCATION TEACHERS

Secondary classification for data to be recorded in this table: CERTIFIED IN SPECIAL EDUCATION

Instructions:
1. Indicate by an "X" each datum not available.
2. The (unduplicated) total row below may not equal the sum of the detail.
3. Please attach to this table explanations of special circumstances necessary to interpret the data.

Type of handicapped pupil taught or served	SPECIAL EDUCATION TEACHERS			FTE's[1] of total persons (if data are available)	Aggregate expenditures for salaries
	Total persons	Full-time	Part-time		
TOTAL (Unduplicated count of persons in position)					
SEVERELY/PROFOUNDLY RETARDED					
TRAINABLE MENTALLY RETARDED					
EDUCABLE MENTALLY RETARDED					
EMOTIONALLY DISTURBED					
LEARNING DISABLED					
SPEECH IMPAIRED					
HARD OF HEARING					
DEAF					
PARTIALLY SIGHTED					
BLIND					
ORTHOPEDICALLY HANDICAPPED					
MULTIPLE HANDICAPPED					
OTHER HEALTH IMPAIRED					

1/ Full-time equivalents of total persons is the total of full-time persons and the full-time equivalents of part-time persons.

State_______________________________

Number of persons, FTE's of total persons, and aggregate salaries of professional staff serving the handicapped in local public schools and other local and state operated facilities, school year 1972-73.

Position to be recorded in this table: SPECIAL EDUCATION TEACHERS

Secondary classification for data to be recorded in this table: IN LOCAL EDUCATION AGENCIES PAYING SALARY DIFFERENTIALS TO SPECIAL EDUCATION TEACHERS

Instructions:
1. Indicate by an "X" each datum not available.
2. The (unduplicated) total row below may not equal the sum of the detail.
3. Please attach to this table explanations of special circumstances necessary to interpret the data.

Type of handicapped pupil taught or served	SPECIAL EDUCATION TEACHERS			FTE's[1] of total persons (if data are available)	Aggregate expenditures for salaries
	Total persons	Full-time	Part-time		
TOTAL (Unduplicated count of persons in position)					
SEVERELY/PROFOUNDLY RETARDED					
TRAINABLE MENTALLY RETARDED					
EDUCABLE MENTALLY RETARDED					
EMOTIONALLY DISTURBED					
LEARNING DISABLED					
SPEECH IMPAIRED					
HARD OF HEARING					
DEAF					
PARTIALLY SIGHTED					
BLIND					
ORTHOPEDICALLY HANDICAPPED					
MULTIPLE HANDICAPPED					
OTHER HEALTH IMPAIRED					

1/ Full-time equivalents of total persons is the total of full-time persons and the full-time equivalents of part-time persons.

State ________________________

Number of persons, FTE's of total persons, and aggregate salaries of professional staff serving the handicapped in local public schools and other local and state operated facilities, school year 1972-73.

Position to be recorded in this table: SPEECH THERAPISTS

Instructions. 1. Indicate by an "X" each datum not available.
2. The (unduplicated) total row below may not equal the sum of the detail.
3. Please attach to this table explanations of special circumstances necessary to interpret the data.

Type of handicapped pupil taught or served	SPEECH THERAPISTS			FTE's[1] of total persons (if data are available)	Aggregate expenditures for salaries
	Total persons	Full-time	Part-time		
TOTAL (Unduplicated count of persons in position)					
SEVERELY/PROFOUNDLY RETARDED					
TRAINABLE MENTALLY RETARDED					
EDUCABLE MENTALLY RETARDED					
EMOTIONALLY DISTURBED					
LEARNING DISABLED					
SPEECH IMPAIRED					
HARD OF HEARING					
DEAF					
PARTIALLY SIGHTED					
BLIND					
ORTHOPEDICALLY HANDICAPPED					
MULTIPLE HANDICAPPED					
OTHER HEALTH IMPAIRED					

1/ Full-time equivalents of total persons is the total of full-time persons and the full-time equivalents of part-time persons.

State ______________________________

Number of persons, FTE's of total persons, and aggregate salaries of professional staff serving the handicapped in local public schools and other local and State operated facilities, school year 1972-73.

Position to be recorded in this table: PSYCHOLOGISTS

Instructions:
1. Indicate by an "X" each datum not available.
2. The (unduplicated) total row below may not equal the sum of the detail.
3. Please attach to this table explanations of special circumstances necessary to interpret the data.

Type of handicapped pupil taught or served	PSYCHOLOGISTS			FTE's[1] of total persons (if data are available)	Aggregate expenditures for salaries
	Total persons	Full-time	Part-time		
TOTAL (Unduplicated count of persons in position)					
SEVERELY/PROFOUNDLY RETARDED					
TRAINABLE MENTALLY RETARDED					
EDUCABLE MENTALLY RETARDED					
EMOTIONALLY DISTURBED					
LEARNING DISABLED					
SPEECH IMPAIRED					
HARD OF HEARING					
DEAF					
PARTIALLY SIGHTED					
BLIND					
ORTHOPEDICALLY HANDICAPPED					
MULTIPLE HANDICAPPED					
OTHER HEALTH IMPAIRED					

1/ Full-time equivalents of total persons is the total of full-time persons and the full-time equivalents of part-time persons.

State ____________________

Number of persons, FTE's of total persons, and aggregate salaries of professional staff serving the handicapped in local public schools and other local and state operated facilities, school year 1972-73.

Position to be recorded in this table: EDUCATIONAL DIAGNOSTICIANS

Instructions:
1. Indicate by an "X" each datum not available.
2. The (unduplicated) total row below may not equal the sum of the detail.
3. Please attach to this table explanations of special circumstances necessary to interpret the data.

Type of handicapped pupil taught or served	EDUCATIONAL DIAGNOSTICIANS			FTE's[1] of total persons (if data are available)	Aggregate expenditures for salaries
	Total persons	Full-time	Part-time		
TOTAL (Unduplicated count of persons in position)					
SEVERELY/PROFOUNDLY RETARDED					
TRAINABLE MENTALLY RETARDED					
EDUCABLE MENTALLY RETARDED					
EMOTIONALLY DISTURBED					
LEARNING DISABLED					
SPEECH IMPAIRED					
HARD OF HEARING					
DEAF					
PARTIALLY SIGHTED					
BLIND					
ORTHOPEDICALLY HANDICAPPED					
MULTIPLE HANDICAPPED					
OTHER HEALTH IMPAIRED					

1/ Full-time equivalents of total persons is the total of full-time persons and the full-time equivalents of part-time persons.

State________________________________

Number of persons, FTE's of total persons, and aggregate salaries of professional staff serving the handicapped in local public schools and other local and state operated facilities, school year 1972-73.

Position to be recorded in this table: SOCIAL WORKERS

Instructions:
1. Indicate by an "X" each datum not available.
2. The (unduplicated) total row below may not equal the sum of the detail.
3. Please attach to this table explanations of special circumstances necessary to interpret the data.

Type of handicapped pupil taught or served	SOCIAL WORKERS			FTE's[1] of total persons (If data are available)	Aggregate expenditures for salaries
	Total persons	Full-time	Part-time		
TOTAL (Unduplicated count of persons in position)					
SEVERELY/PROFOUNDLY RETARDED					
TRAINABLE MENTALLY RETARDED					
EDUCABLE MENTALLY RETARDED					
EMOTIONALLY DISTURBED					
LEARNING DISABLED					
SPEECH IMPAIRED					
HARD OF HEARING					
DEAF					
PARTIALLY SIGHTED					
BLIND					
ORTHOPEDICALLY HANDICAPPED					
MULTIPLE HANDICAPPED					
OTHER HEALTH IMPAIRED					

1/ Full-time equivalents of total persons is the total of full-time persons and the full-time equivalents of part-time persons.

State ______________________________

Number of persons, FTE's of total persons, and aggregate salaries of professional staff serving the handicapped in local public schools and other local and state operated facilities, school year 1972-73.

Position to be recorded in this table: OCCUPATIONAL THERAPISTS

Instructions:
1. Indicate by an "X" each datum not available.
2. The (unduplicated) total row below may not equal the sum of the detail.
3. Please attach to this table explanations of special circumstances necessary to interpret the data.

Type of handicapped pupil taught or served	OCCUPATIONAL THERAPISTS			FTE's[1] of total persons (If data are available)	Aggregate expenditures for salaries
	Total persons	Full-time	Part-time		
TOTAL (Unduplicated count of persons in position)					
SEVERELY/PROFOUNDLY RETARDED					
TRAINABLE MENTALLY RETARDED					
EDUCABLE MENTALLY RETARDED					
EMOTIONALLY DISTURBED					
LEARNING DISABLED					
SPEECH IMPAIRED					
HARD OF HEARING					
DEAF					
PARTIALLY SIGHTED					
BLIND					
ORTHOPEDICALLY HANDICAPPED					
MULTIPLE HANDICAPPED					
OTHER HEALTH IMPAIRED					

1/ Full-time equivalents of total persons is the total of full-time persons and the full-time equivalents of part-time persons.

State ____________________________

Number of persons, FTE's of total persons, and aggregate salaries of professional staff serving the handicapped in local public schools and other local and state operated facilities, school year 1972-73.

Position to be recorded in this table: PHYSICAL THERAPISTS

Instructions:
1. Indicate by an "X" each datum not available.
2. The (unduplicated) total row below may not equal the sum of the detail.
3. Please attach to this table explanations of special circumstances necessary to interpret the data.

Type of handicapped pupil taught or served	PHYSICAL THERAPISTS			FTE's[1] of total persons (If data are available)	Aggregate expenditures for salaries
	Total persons	Full-time	Part-time		
TOTAL (Unduplicated count of persons in position)					
SEVERELY/PROFOUNDLY RETARDED					
TRAINABLE MENTALLY RETARDED					
EDUCABLE MENTALLY RETARDED					
EMOTIONALLY DISTURBED					
LEARNING DISABLED					
SPEECH IMPAIRED					
HARD OF HEARING					
DEAF					
PARTIALLY SIGHTED					
BLIND					
ORTHOPEDICALLY HANDICAPPED					
MULTIPLE HANDICAPPED					
OTHER HEALTH IMPAIRED					

1/ Full-time equivalents of total persons is the total of full-time persons and the full-time equivalents of part-time persons.

State___________________________________

Number of persons, FTE's of total persons, and aggregate salaries of professional staff serving the handicapped in local public schools and other local and state operated facilities, school year 1972-73.

Position to be recorded in this table: ADMINISTRATIVE STAFF

Instructions:
1. Indicate by an "X" each datum not available.
2. The (unduplicated) total row below may not equal the sum of the detail.
3. Please attach to this table explanations of special circumstances necessary to interpret the data.

Type of handicapped pupil taught or served	ADMINISTRATIVE STAFF			FTE's[1] of total persons (if data are available)	Aggregate expenditures for salaries
	Total persons	Full-time	Part-time		
TOTAL (Unduplicated count of persons in position)					
SEVERELY/PROFOUNDLY RETARDED					
TRAINABLE MENTALLY RETARDED					
EDUCABLE MENTALLY RETARDED					
EMOTIONALLY DISTURBED					
LEARNING DISABLED					
SPEECH IMPAIRED					
HARD OF HEARING					
DEAF					
PARTIALLY SIGHTED					
BLIND					
ORTHOPEDICALLY HANDICAPPED					
MULTIPLE HANDICAPPED					
OTHER HEALTH IMPAIRED					

1/ Full-time equivalents of total persons is the total of full-time persons and the full-time equivalents of part-time persons.

State ______________________________

Number of persons, FTE's of total persons, and aggregate salaries of professional staff serving the handicapped in local public schools and other local and state operated facilities, school year 1972-73.

Position to be recorded in this table: OTHER PROFESSIONAL STAFF SERVING HANDICAPPED PUPILS (Specify)

Instructions:
1. Indicate by an "X" each datum not available.
2. The (unduplicated) total row below may not equal the sum of the detail.
3. Please attach to this table explanations of special circumstances necessary to interpret the data.

Type of handicapped pupil taught or served	OTHER PROFESSIONAL STAFF SERVING HANDICAPPED PUPILS (Specify)			FTE's[1] of total persons (if data are available)	Aggregate expenditures for salaries
	Total persons	Full-time	Part-time		
TOTAL (Unduplicated count of persons in position)					
SEVERELY/PROFOUNDLY RETARDED					
TRAINABLE MENTALLY RETARDED					
EDUCABLE MENTALLY RETARDED					
EMOTIONALLY DISTURBED					
LEARNING DISABLED					
SPEECH IMPAIRED					
HARD OF HEARING					
DEAF					
PARTIALLY SIGHTED					
BLIND					
ORTHOPEDICALLY HANDICAPPED					
MULTIPLE HANDICAPPED					
OTHER HEALTH IMPAIRED					

1/ Full-time equivalents of total persons is the total of full-time persons and the full-time equivalents of part-time persons.

State ______________________________

Number of persons, FTE's of total persons, and aggregate salaries of professional staff serving the handicapped in local public schools and other local and state operated facilities, school year 1972-73.

Position to be recorded in this table: PARAPROFESSIONAL STAFF SERVING HANDICAPPED PUPILS

Instructions:
1. Indicate by an "X" each datum not available.
2. The (unduplicated) total row below may not equal the sum of the detail.
3. Please attach to this table explanations of special circumstances necessary to interpret the data.

Type of handicapped pupil taught or served	PARAPROFESSIONAL STAFF SERVING HANDICAPPED PUPILS			FTE's[1] of total persons (if data are available)	Aggregate expenditures for salaries
	Total persons	Full-time	Part-time		
TOTAL (Unduplicated count of persons in position)					
SEVERELY/PROFOUNDLY RETARDED					
TRAINABLE MENTALLY RETARDED					
EDUCABLE MENTALLY RETARDED					
EMOTIONALLY DISTURBED					
LEARNING DISABLED					
SPEECH IMPAIRED					
HARD OF HEARING					
DEAF					
PARTIALLY SIGHTED					
BLIND					
ORTHOPEDICALLY HANDICAPPED					
MULTIPLE HANDICAPPED					
OTHER HEALTH IMPAIRED					

1/ Full-time equivalents of total persons is the total of full-time persons and the full-time equivalents of part-time persons.

State______________________________________

. Number of persons, FTE's of total persons, and aggregate salaries of professional and nonprofessional staff serving regular pupils in local public schools and other local and state operated facilities, by position, school year 1972-73.

Instructions: 1. Indicate by an "X" each datum not available.

2. The (unduplicated) total row below may not equal the sum of the detail.

3. Please attach to this table explanations of special circumstances necessary to interpret the data.

Type of position	Number of persons in position			FTE's[1] of total persons (if data are available)	Aggregate expenditures for salaries
	Total persons	Full-time	Part-time		
TOTAL (unduplicated count of persons in professional positions					
TEACHERS OF REGULAR PUPILS					
SOCIAL WORKERS					
COUNSELORS					
ADMINISTRATIVE STAFF					
OTHER PROFESSIONAL STAFF (specify)					
OTHER PROFESSIONAL STAFF (specify)					
OTHER PROFESSIONAL STAFF (specify)					
OTHER PROFESSIONAL STAFF (specify)					
PARAPROFESSIONALS					

1/ Full-time equivalents of total persons is the total of full-time persons and the full-time equivalents of part-time persons.

State ______________________________

Number of pupils receiving special instruction or services and number diagnosed but not receiving services in local public schools, locally operated special schools, special schools operated by intermediate units, and State-operated special schools or institutions school year 1972-1973.

Type of handicap	Total diagnosed pupils	Number of pupils receiving special instruction or services (separate [special] classes, special instruction by regular classroom teachers and individualized special instruction or assistance by specialized professional personnel)	Number of pupils who were diagnosed but not receiving services (on waiting list for service, or did not receive service for other reasons)
Total number of handicapped pupils			
Severely and profoundly retarded			
Trainable mentally retarded			
Educable mentally retarded			
Emotionally disturbed			
Learning disabled			
Speech impaired			
Hard of hearing			
Deaf			
Partially sighted			
Blind			
Orthopedically handicapped			
Multiple handicapped			
Other health impaired			

Notes: 1. Indicate by an "X" data not available.
2. Please attach to this table explanation of special circumstances necessary to interpret the data.

Expenditures for handicapped pupils in programs in reimbursed public, nonpublic and out-of-State special schools and institutions, 1972-73.

Instructions:
1. Indicate by an "X" each datum not available.
2. Please attach to this table explanations of special circumstances necessary to interpret this statistical report.

Type of handicap	Total reimbursed expenditures[1] (a)	Reimbursed tuition expenditures (educational)[2] (b)	Reimbursed therapeutic expenditures[3] (c)	Reimbursed room and board expenditures[4] (d)
TOTAL EXPENDITURES				
SEVERELY AND PROFOUNDLY RETARDED				
TRAINABLE MENTALLY RETARDED				
EDUCABLE MENTALLY RETARDED				
EMOTIONALLY DISTURBED				
LEARNING DISABLED				
SPEECH IMPAIRED				
HARD OF HEARING				
DEAF				
PARTIALLY SIGHTED				
BLIND				
ORTHOPEDICALLY HANDICAPPED				
MULTIPLE HANDICAPPED				
OTHER HEALTH IMPAIRED				

1/ Total is the sum of columns (b), (c), and (d).

2/ Typically reimbursed by the State Education Agency (or LEA). Often, the institution bills the SEA (LEA) for a tuition expense.

3/ Includes physical therapy, psychotherapy, occupational therapy, social services etc., when provided by the reimbursed institution, regardless of the State agency which reimburses such costs.

4/ Typically for children in a residential institution, regardless of the State agency which reimburses such costs.

State______________________________

Expenditures for transportation and for special supplies, materials, and equipment for handicapped pupils, 1972-1973.

Instructions: 1. Indicate by an "X" each datum not available.

2. Please attach to this table explanations of special circumstances necessary to interpret this statistical report.

Type of Handicap	Transportation	Special supplies, materials, and equipment
TOTAL EXPENDITURES		
SEVERELY AND PROFOUNDLY RETARDED		
TRAINABLE MENTALLY RETARDED		
EDUCABLE MENTALLY RETARDED		
EMOTIONALLY DISTURBED		
LEARNING DISABLED		
SPEECH IMPAIRED		
HARD OF HEARING		
DEAF		
PARTIALLY SIGHTED		
BLIND		
ORTHOPEDICALLY HANDICAPPED		
MULTIPLE HANDICAPPED		
OTHER HEALTH IMPAIRED		

Other statistics of regular pupils in locally and state operated public schools and institutions, school year 1972-1973.

Pupil membership in schools and institutions operated by local education agencies, intermediate units, and State agencies, school year 1972-1973. (Exclude handicapped pupils.) ____________________

Expenditures during school year 1972-1973 for transportation. ____________________

Senator RANDOLPH. Kate Long, please?

STATEMENT OF KATE LONG, SPECIAL EDUCATION PROFESSIONAL, OAK HILL, W. VA.

Senator RANDOLPH. Kate, tell us who you are and where you are from and what you are doing. You have written a book, I know that.

Ms. LONG. That is right. My name is Kate Long. I am from West Virginia and I am a special education professional. I am currently finishing a book concerning the problems of implementing legislation in the local school system.

I am appreciative of the opportunity to offer testimony today to a group of people who have shown such continuing effort and on behalf of handicapped children and hope that I will be able to add something of value to the rest of the testimony.

The goal of everybody here today is appropriate education for all children. Though my testimony comes from a different perspective, it also concerns this common goal.

I was invited to testify here today because I am writing a book about the human problems involved in implementing the intent of legislation like S. 6 on the local level, when the local school system doesn't share the philosophy or isn't ready for it. I began writing this book while supervising a rural county special educational program which involved approximately 200 children. The program had been created primarily in response to a State mandate which also provided three times as much money for each child in special education as was provided for each child in a regular classroom. All the children in the program had been declared retarded and placed in self-contained classrooms behind the regular schools and a separate building popularly known as Dummy Tech. The children came almost exclusively from low income or welfare families.

A very high percentage of these so-called retarded children were alert, adept children from isolated or disadvantaged homes, who simply had not developed the vocabulary and concepts they needed to deal with school or an IQ test. Many had unusual skills for children of their age; mechanical and practical know-how and a working knowledge of trees and other plants, for instance.

Since it was generally assumed, with the best of intentions, that these retarded children couldn't learn anyhow, there was great resistance to spending money on the program. For the most part, the children were given teachers who couldn't be placed elsewhere. Most of these teachers had training in fields like home economics, accounting and high school English. Their 6 hours of emergency training had not prepared them to deal with the kinds of problems they encountered in their children.

Frustration led to a lot of babysitting. At the same time, many severely handicapped children in the system were being shunted aside into homebound instruction or the Day Care Center. Rumors of closet cases were commonly heard. It's hard to imagine, without actually knowing children in that kind of situation, what this kind of placement can do to a child's spirit and motivation. The stigma of the label, the low expectations, and the fact that most of the children weren't receiving the kind of help they needed produced tragic results.

Many of the children were becoming what the school system said they were. No child had ever been transferred out of the program. We were actually manufacturing handicaps.

This kind of story is unfortunately a familiar one. I tell it here today, not to point at a particular program, but as one example of a widespread and very complex problem.

After 2 years of work, involving contacts with people from all parts of the United States, I am convinced that these kinds of problems are common to all regions of our country in this time of rapid expansion, they are of great concern to special educators everywhere, who feel, as I do, that it is of the utmost importance to children and to our field that these problems be dealt with in an open, thorough manner.

These situations aren't a question of good guys and bad guys. There is simply a huge gap between existing expertise and philosophy and the present capabilities and attitudes of many school systems. At the national level, people sometimes speak as if legislation could have only two possible outcomes: First, some services for many children, or second, high quality services for a few kids. There is a very real third possibility: inadequate stigmatizing special education programs can actually deprive a child of self-respect and educational and social opportunity. A bad program can limit a child's future possibilities, just as a good program can expand them. During this period of adjustment it is crucial that all three possibilities be considered.

Documenting the extent of inappropriate classification and low-quality programing on a national basis is like putting together a patchwork quilt at this point. The mandates and court cases of the past years, while providing the impetus for badly needed services, have made the States very reluctant to provide any information about the problems and bad practices they have to deal with.

This dilemma was illustrated at a recent meeting of the National Association of State Directors of Special Education, when a BEH official said something in a small meeting about the need to get accurate information on the number of children unserved, and the number of children receiving inadequate services.

A State director answered, with great support from all sides, "Are you kidding? If we put that kind of information on paper and send it to you, we will be admitting that we are in violation of our State mandate." This statement wasn't an indication of unwillingness to comply. Both the State people and the BEH personnel showed genuine frustration at the barriers to honest statements of problems.

At this point, the documentation has to come from informal interviews and on-site visiting, and published material.

An extensive list of sources can be found within either "The Futures of Children" or "Issues in the Classification of Children." I would like to point particularly to the children's defense fund report, "Children Out of School in America" and their findings that:

> "As a result of inadequate assessment procedures, parental exclusion from testing and placement decisions, subjective school judgments and racial discrimination, misclassification of children frequently occurs. The extent of misclassification that we found alleged among all children was serious. Among minority children, it was alarming. When we analyzed special education data submitted to the Office for Civil Rights (OCR) in the fall of 1973 by 505 school districts in Alabama, Georgia, South Carolina, Mississippi, and Arkansas which had children enrolled in classes for the educable mentally retarded (EMR), we found that:

In 190 of the districts (37.4 percent), the probability that a black student would be in an EMR class was five times as great as for a white student. There were 51 districts in which the probability of being in an EMR class was ten times greater for a black student than for a white student.

Over 80 percent of the students in EMR classes in these districts were black, even though less than 40 percent of the total enrollment in these districts were black.

46 percent of these 505 districts reported that 5 percent or more of their black students were in EMR classes, but only 4 districts (less than 1 percent) reported 5 percent or more of their white students in EMR classes.

At least 10 percent of the black students were in EMR classes in 64 of the districts.

Not only are the probability rates different for black and white students, but the number of black students in EMR classes in excess of the corresponding ratio is 32,381. In only 13 districts were there fewer black students than would be implied by the white ratio."

To a few excerpts from the 1973 S. 6 hearings:

"We talk about getting away from catagorical concepts, labeling, and these sorts of things, but we're still at it, and I've spent many hours in testing personally, and I've been guilty of this, I'm sure. I think that the black child and minority group child, Latin-American in certain parts of the country, or Chinese, or whatever it happens to be, I think does end up inordinately, as far as proportions, in special classes, because one, his parent is not able to speak out, doesn't know how to speak out sometimes, to raise questions about the services provided, and, two, it's very convenient sometimes to hold this critter up to the light—and I use that word kindly—and see IQ 69, which places him in, let's see, the educable MR category. So labeling and the diagnostic process can be used to exclude people from services, just as it can be used to include people in services. There are some real problems here that don't seem to be too close to resolution."

DR. CHARLES BARNETT,
Commissioner, South Carolina Dept. of Mental Retardation.

"The main impact then, of (special class) placement in special education, is that of providing grist for the mill of prejudice against different races, the poor, and/or both. By ignoring the assumptions on which tests and testing are based (Newland 1963), special education has labeled an excessive number of inner city children as mentally retarded."

DR. OLIVER L. HURLEY,
University of Georgia, "Special
Education in the Inner City:
The Social Implications of Placement",
Submitted for the record of the hearings.

"Apparently, in so many cases—not all, fortunately—but in so many cases, the teacher of a special class is the one who has outlived any usefulness she may have had in a regular class, and this is a tragedy. And . . . in too many cases, the children have been apparently inappropriately diagnosed, or either too hurriedly administered Stanford-Binet or WISE, I don't know, and have come up with a score, you know, as though this is some magic score that says he is automatically retarded. And I was much concerned with what seemed to me an unduly large number of black children in special classes, who I do not feel are actually retarded—perhaps deprived in language, or with differences in language, so that they could not pass the test."

DR. DOROTHY FLEETWOOD,
Director, Habilitation Services,
Partlow State School and Hospital,
Alabama Department of Mental Health.

It also seems appropriate to mention "The Futures of Children," "Issues in the Classification of Children," Jane Mercer's fine study of inappropriate classification and isolation of minority children in the Riverside, Calif., school system, Labeling the Mentally Retarded, and the Council for Exceptional Children's, "A Continuing Summary of Pending and Completed Litigation Regarding the Education of Handicapped Children," which contains accounts of inappropriate placement lawsuits from several different parts of the country.

My research for this book has convinced me of two things:

1. There is an exciting and rapid increase in the number of people who are actively doing and would like to do good things for genuinely handicapped children. As we all know, some very inspiring, constructive programs are being developed in many places. Because these positive, long overdue developments are so very welcome, it is sometimes hard to face the second reality.

2. A very serious degree or misconception exists about special education once you get away from expert/specialist kinds of circles. The concept of mainstreaming or "least restrictive environment" is very poorly understood and consequently is very threatening to many people. The shortage of trained personnel is critical, especially in rural and inner city areas, and the concept of "handicapping condition" itself is subject to much confusion, especially in the realm of those handicaps which are relatively subjective in identification and hazy in definition.

Special education was created to provide appropriate services to genuinely handicapped children, but it is also unfortunately very closely tied in with the concept of deviancy in a time when ideas about what is deviant and what isn't differ drastically.

A lot of prejudice existed in our schools against children who are different, nonconformist, or handicapped, long before special education began to expand at its present rate. In a time when we have controversies over immoral textbooks and continued racial disturbance, emotionally disturbed too often means, in practice, that a child doesn't behave as his teacher feels he should behave. Retarded can be and is interpreted as "below grade level," and learning disabled can mean almost anything.

Attitudes like "retarded kids can't learn," "regular teachers shouldn't have to deal with those kids," and "IQ scores are conclusive," are still widespread. Minority and low-income children are vastly overrepresented in educational programs for the retarded, and I am told by people from several States that the same thing is beginning to happen in the area of emotional disturbance.

The public reaction against distortion of John Dewey's Progressivism and the current backlash against open classrooms show how important it is to preserve original intent of constructive educational programs. American schools and our whole society desperately need good special education services which bring children together in appreciation of individual differences. They don't need more dummy classes, babysitting operations, second-rate groups of children or "dumping grounds" for "behavior problems." They do not need "educational services" which act as a new means of racial and economic segregation.

Senator RANDOLPH. I ask you to stop just at that point. I would like to talk to you just momentarily. There are those who believe that we must not forget that there is a necessary factor within the schoolroom of discipline, a discipline which is understood between the teacher and pupil and a discipline that is built on understanding and love and even perhaps better, a dose of laughter sometimes.

There is the need for discipline; the teacher must be, I think, of the type able to find a way to bring it into being because the children must not take over the school. That has happened, Kate, in many, many instances in recent years. Would you comment on this subject?

Ms. LONG. Yes. I am well aware of the problems with which you are speaking. I firmly agree with your feeling that the teacher must be able to deal with these problems with understanding, love and every capability within her power. I do think it would be unfortunate, in a time when accountability pressures are building on regular education to upgrade their means of dealing with these problems within the regular schools, if special education placement were used as an means of avoiding that responsibility. When genuinely handicapped children still need so much, it's important that regular education not use these services to deal with their discipline problems.

Senator RANDOLPH. Perhaps the handicapped child within the classroom is really a better disciplined child than the other child.

Ms. LONG. This can be very true. It is very difficult in this time of rapid expansion and resultant confusion on the local level, for educators to differentiate between the child who is genuinely handicapped and the child who is merely different.

I didn't do a very good job as supervisor of my program mainly because I didn't have the patience and wisdom at that time to remember that adults need time and positive encouragement to adjust and acquire new attitudes, just as children do, especially if their pay is low. It takes a long time and a lot of conscious attitude-changing to counteract local realities like the good-natured principal who firmly believes that all welfare or black children are probably retarded, the bad teacher who is the school board member's aunt, or the fact that three times the usual amount of money is coming in for each child in special education.

We are definitely in a period of adjustment. This is a very important point in terms of Federal legislation. The Federal Government can't get down and ensure quality at the local level. However, in view of the present difficulties and uncertainties within this field at this time, I believe that the Federal Government does have a double responsibility: (1) to continue and expand its ongoing support of the State and local people, and equally important, and (2) to minimize incentive for unfortunate practices.

The present level of funding must be maintained and increased if appropriate education for all children is ever to become a reality, but great caution must be exercised, since the wrong kind of funding procedures can provide great incentive for abuse. While I believe the present emphasis on severely handicapped children is highly commendable, it is important to recognize the urgent need to upgrade present programs and give the States a little more leeway there. When a program is deplorable to begin with, more of the same just makes the problem worse. The SEA's are also going to need additional personnel in order to get out in the field to find, assist, and monitor local programs in violation of the intent of the law.

In view of present problems and uncertainties, great care must be taken to make funds available in a manner which does not encourage local school systems merely to label as many children as possible. I would like to strongly urge the continuation of the Mathias funding formula. It is the only one presently under consideration which both provides and protects, especially since there seems to be considerable controversy over the definition and practicality of excess cost. The excess cost funding formula in S. 6 would provide an increasingly greater amount of money as the SEA increases the enrollment in its special education program; therefore, excess cost funding provides strong incentive to pack special education classes and discourages mainstreaming efforts.

S. 6 contains many admirable provisions which would increase the pressure on the States in ways which would be very productive if there were a chance that it would be fully funded. Unfortunately, I think it would be hard to find anybody who would predict even 50 percent actual funding for any of the three bills under consideration.

Without adequate funding, the imposition of requirements like individualized plans, evaluation of all children, "regardless of the severity of their handicap," and State supervision of other agencies would, in my view, greatly compound the present problems, although it would be very good to see the individualized plans tested in selected areas of each State.

On the other hand, several of the provisions of S. 6 would be of great benefit to the children, regardless of funding level and the addition of "handicapped children with the most severe handicaps" to the priority statement is commendable, although the word "unserved" needs clarification, if it is not to be interpreted to mean minimally handicapped children in the regular classroom.

The requirement that all evaluation materials be in the home language and that the placement be based on more than one criteria, as well as the requirement leading toward a comprehensive system of personnel development including general educators are both excellent.

A tremendous additional advantage of the Mathias method of funding is the fact that it leaves an avenue open for future alternatives to our present system of labeling children. Since Mathias is an amendment to Public Law 93-380, BEH currently requires categorical reporting; however, under Mathias or Randolph, there may be room for working out practical alternatives. Within the last 3 weeks alone, I have spoken with State people from Texas, Massachusetts, Tennessee, and Wyoming, all of whom expressed great frustration at the fact that while their States and the profession as a whole are moving away from labeling and categorization, the Federal Government is still requiring labels. Hopefully in the future, a way will be found to take the Federal Government out of the unfortunate position of hindering progressive moves in some of our States.

Many of our present labels are essentially undefinable in practice, notoriously "retarded," "emotionally disturbed" and "learning disabled." It would be very sad to see the Federal Government take away leeway for future alternatives by imposing a definite funding mandate to categorize, like that contained in S. 6.

I appreciate very much the opportunity to present this testimony. It is a real pleasure to see so many people dedicated to providing an appropriate education for all children. If I sound a negative note, it is because I believe our future possibilities and present developments are too precious not to recognize and deal with real problems as they occur. But, just as important, I am, I think, speaking on behalf of some real children whose opportunities and self-respect have been unintentionally lessened as we expand our field so rapidly. We have to remember and protect them, too.

Senator RANDOLPH. Thank you very much, Kate. I would like the record to reflect the book that you have authored, "Johnny's Such a Bright Boy, What a Shame He's Retarded." You hear that often in one way or another. In a sense you are trying to remove that "but," aren't you?

Ms. LONG. Yes.

Senator RANDOLPH. Certainly, the readers of your book, especially in this field, will discover its truth. I want to suggest that pop and mom read it, too, as well as teachers. This is very, very important.

Ms. LONG. This is what I hope, Senator Randolph. I began writing this book because I believed one of the biggest troubles is just a great confusion existing in many school systems about what special education is all about. What is mainstreaming all about? Which children can be mainstreamed? What do labels mean?

It is unfortunately a natural tendency in some places to remove troublesome children from the regular program rather than seeking out generally and severely handicapped children. It isn't because the people are any less well intentioned in these places and other places, it is often because they simply have not been exposed to the full philosophy and thinking in the view of the special education.

I hope that the book will be of benefit to parents and teachers and anybody interested in doing good things for these children. Thank you.

Senator RANDOLPH. Kate, you have shared not only your formal testimony with us today, but you have helped us through research and counseling with Mrs. Forsythe and members of our staff. All this will help to strengthen the record as we move forward toward solving this problem.

Thank you very much.

Ms. LONG. Thank you, Senator Randolph.

Senator RANDOLPH. Mr. Steinhilber, would you come up, please?

STATEMENT OF AUGUST W. STEINHILBER, ASSISTANT EXECUTIVE DIRECTOR FOR FEDERAL RELATIONS, NATIONAL SCHOOL BOARDS ASSOCIATION, ACCOMPANIED BY MICHAEL A. RESNICK, LEGISLATIVE SPECIALIST

Mr. STEINHILBER. I would like to submit my testimony for the record. I would like to paraphrase somewhat from it to bring out some of the more important points and mention some of the things that led up to that testimony.

Senator RANDOLPH. You represent what organization?

Mr. STEINHILBER. I represent the National School Boards Association, Mr. Chairman. We represent about 17,000 school boards in the United States and about 90,000 board members.

Indeed, we cannot be here next week because we will have our annual convention, bringing together a large number of the board members for some in-service training.

A number of the programs in that meeting will be on the question of the handicapped. We will have literally thousands of board members brought together in Miami.

Senator **Randolph**. I know. I have enjoyed my contacts with your organization. I have addressed them on more than one occasion.

Mr. **Steinhilber**. On more than one occasion. In fact, your presentation to us on the energy question helped formulate our policy. We appreciate that.

Senator **Randolph**. Please proceed then to discuss the subject matter.

Mr. **Steinhilber**. I really appreciate this opportunity, for more than one reason. Within the past 2 years, the staff of this committee has suggested to the National School Boards Association that it broaden its horizons to think of more than just Elementary and Secondary Education Act programs. Indeed, a result of that was a series of meetings in which we involved the Council for Exceptional Children and our own board of directors.

In addition we have been meeting with many groups at the elementary-secondary level in order to develop a more consistent posture and try to work out some of the differences that we have had in the past.

I think the testimony which we have before you represents that, I would like to point out for the record that there is a memorandum in this document which is agreed to by a number of the major associations, AASA, the National School Boards Association, in part by the Council of Chief State School Officers and by CEC.

I think we are moving toward that push on appropriations that we really need. Indeed, it is somewhat ironic that we will be discussing this with the House Appropriations Committee tomorrow when they have completed their mark up. We will only be able to ask for $10 million, because of the limitations of the authorizations.

But I really believe that, in spite of what has been heard here this morning, appropriations for the handicapped can be increased greatly. Indeed, I will say we have the wherewithal to increase it by as much as a half billion dollars, if these various organizations stick together as they have in the past month.

Turning to our testimony, NSBA is pushing strongly toward a local entitlement concept, a concept similar to title 1, of ESEA, if you will. That concept being based on counting the number of handicapped children——

Senator **Randolph**. I interrupt you to say that we have a bell now indicating that the roll call is in progress. You will understand my leaving.

Mrs. Forsythe will continue with you. There will be perhaps one or two questions that she will ask you. There may be others that Senator Stafford will ask you to answer by letter. I also know Senator Williams, the chairman of our full committee, has questions.

We also know that the contribution that the school boards make to the process of education is very important. We recognize that. The school boards in large measure are elective, are they not?

Mr. **Steinhilber**. They are elected. They are locally elected lay individuals dedicated to servicing the public.

Senator **Randolph**. After you have testified, we will recess until April 15, Tuesday of next week. We will then meet not at 10 a.m., but at 9:30 a.m.

Thank you very much.

Mr. STEINHILBER. Thank you, Mr. Chairman.

To continue, we are working toward and pushing toward the local entitlement concept. The concept being that handicapped youngsters are counted in each school system, a formula is devised for the accounting for those children and that school systems be entitled to the amount of money required by the formula.

We are pushing for this, it is reasonable in terms of the development of the program at the local level, and it will develop that kind of support across all levels. It will make a Federal program for the education of the handicapped viable and strong and indeed, make it stronger as the years go by.

One only need look at the best example of a program where we have this kind of formula, namely title I of ESEA, to recognize that it has developed viability and indeed strength.

I recognize that time is indeed very short if we are going to do something in the appropriations process this year. Therefore, a straight 1-year extension of Public Law 93-380 is very viable. But I still would like to press for a new kind of formula based on local school district entitlements.

Periodically, we hear comments that the education of youngsters is "a State responsibility." I think that is not quite entirely correct because the definition of State is—well, let's say it varies from area to area.

This gives us another one of our concerns: The strict State plan program. Quite frankly, we do not believe that most State departments of education have the wherewithal to completely administer a program as broad-based as the one that is being suggested. For that matter, we now are going to suggest something slightly different and something I am sure that this committee would be surprised to hear from the National School Boards Association.

We are well aware that enforcement of the rights of the youngsters involved, the handicapped youngsters, is a large issue. It is one in which some of my organization's membership has fallen extremely short. However, we are suggesting here this morning that enforcement provisions be made in the Office for Civil Rights rather than as a part of the State Department of Education plans or as part of the Commissioner of Education's responsibilities.

All too often, when enforcement of a program is linked to the funding of that program, internal political decisions are made which in the long run injure the program rather than enhance it. So, therefore, we are suggesting that the Office for Civil Rights, which now has a history of dealing with problems, can be the enforcement agency making sure that no youngster is denied his right to education merely because he or she happens to be handicapped.

I would say right now we do not shirk our responsibility by making this comment. We would say that we would support that concept 100 percent.

Mrs. FORSYTHE. Mr. Steinhilber, are you referring to the concept that Senator Pell introduced recently which adds the word "handicapped" to the present Civil Rights bill?

Mr. STEINHILBER. Yes. In fact, similar to what has taken place with respect to sex discrimination.

I think these all can be handled by one particular office and it can be handled literally better because they actually do a better job of investigating. I know there has been comments about the slowness of the Office for Civil Rights. They have a better opportunity to investigate, to literally bring in any school system which is in violation of the law, either through the hearing examiner or through court and compel compliance with civil rights law.

Therefore, that is why I contend this is the mechanism we should be looking for in the future. I think it would make the operation very clear as far as our own membership is concerned.

I am not going to go through the rest of the details of our testimony. I would be very delighted to have questions at this time. Or as Senator Randolph, the chairman of the subcommittee suggested, we will be more than delighted to follow up with any answers to written questions.

Mrs. **Forsythe**. We can do both. Miss Walker, do you have any questions from Senator Williams?

Mr. **Steinhilber**. Yes.

Miss **Walker**. In S. 6 which Senators Williams, Randolph, and Stafford have introduced, there is an entitlement formula on the basis of children served. What I understand you to be saying is you would like to see that carried out further to the local level?

Mr. **Steinhilber**. That is it precisely. The entitlement goes right to the particular school system.

Miss **Walker**. Based on children that are currently being served by the school system?

Mr. **Steinhilber**. The formula would be based on all children who are qualified as handicapped children. That combines both the financial wherewithal at the local level and with the civil rights compliance that you are suggesting through OCR. That would indeed require school systems to provide those kinds of services for all handicapped children.

Miss **Walker**. Could I ask you a couple of additional questions surrounding that? In the case of education of handicapped children, they are not always educated within a local school system, but may be in cooperative arrangement in intermediate units. Do you have any thoughts about that?

Mr. **Resnick**. Yes. As is our position and the position also taken by some of the organizations in the memorandum that is attached to our testimony, that where a local school system, for example, does not have a sufficient number of children who are handicapped to justify a program then they should come into agreement. That is, they should be given the option to come into agreement with other local school systems in order to run a cooperative program.

This follows a line taken in ESEA, title I that a local school system can come into agreement with other local school systems at the school district's option. In addition, perhaps local school systems should be permitted to enroll children in a regional program run by the State. In either case, we would still want the overall guidelines of the State plan to apply.

In addition, however, we would want to make sure that the money continues to follow the child since the child is a resident of the local school district. Hence in terms of the fund distribution within the

State that child continues to be counted within that particular school system and then if the school system determines, in the interest of the child, to enter a cooperative or regional arrangement the local school system can commit those funds accordingly.

Miss WALKER. Have there been, in fact, problems with these arrangements in the sense that the moneys are retained as opposed to entering into the cooperative arrangement?

Mr. STEINHILBER. There have been any number with respect to title I, especially in areas where there is sparse population, such as out West, where cooperative arrangements had to be made. Indeed, we have some States where there are literally too many school districts to warrant a good program for education in all school districts.

I am not just talking about handicapped or education of the disadvantaged. Some of those Western States have a myriad of school districts. In fact, one State has 2,000 school districts within its jurisdiction. There cooperative arrangements, specifically for title I, have worked very well.

Miss WALKER. Would these cooperative arrangements be on a legal basis?

Mr. STEINHILBER. Yes. They are legal agreements that are normally based upon something that the State law permits. If you recall, the title I formula really is a county formula even though it goes below county in operation. But basically, with title I, with a county formula, the local school district in conjunction with the State can make arrangements to transfer the entitlement to another school system if the youngster involved was going to be actually educated there or the additional service was in the neighboring school system.

In other areas the mechanism is one of a contractual relationship between school district A and school district B, where the child and money is transferred.

Miss WALKER. I raise these questions because I know of a number of States, Pennsylvania for one, which funds education for the handicapped programs on the basis of the intermediate unit level. I know New Jersey has recently passed laws which allows that.

Mr. STEINHILBER. The program in New York where part of the program for the education of the disadvantaged is handled provides for a contractual arrangement.

But these are the distinctions which are made based upon efficiency of operation. Indeed, we would see that kind of arrangements taking place with respect to the education of the handicapped.

Miss WALKER. What would be your reaction to a possible alternative which might be a local entitlement based on those units within that particular State that are legally constituted to provide such services—that would perhaps take into consideration intermediate units and other cooperative arrangements?

Mr. STEINHILBER. You are saying strictly legally constituted to perform services. I think I have some problems with that because you have intermediate districts in many places which may have the legal capability to perform services but do not, in fact, perform any services. I am thinking of many places where the county unit applies. There may be a county school system, county board of education if you will. But the county serves no more than a residual of data and collects information about all the operating school districts within that county.

So, if you are broadening it to that kind of base, I would begin to have problems. However, if you are talking about districts not just legally constituted in the broader sense, but having the specific responsibility within that State for the education of the handicapped, then I would not have the problem.

Mr. **Resnick**. I would like to add that, while there are definitely many fine State-operated programs, certainly the locally operated programs are of equal merit. To the extent that the funding for State-operated programs is increased, in devising a formula we would like to see the State-operated programs funded through a separate line item rather than the money coming off the top as it does in the case of ESEA title I.

In this regard we are concerned that by the happenstance of whether a child is enrolled in a State-operated program or a local operated program, the amount of Federal dollars behind him can vary. Perhaps by using a separated line item approach there can be a bit more equity, regardless of whether it is the State program or the local program in which the child is enrolled.

Mr. **Steinhilber**. I realize this is not an appropriations committee that we are standing before today. But nevertheless, the percentage set-asides off the top do give us some problems with appropriations because there is a tendency for the appropriations committee to not forget formula changes. The net result is that the actual dollars to a local district for the education of youngsters decrease even though—I am talking about other Federal programs—even though the total appropriations either remains the same or has increased slightly.

This gets to be a very difficult thing to explain to members of the appropriations committee—why a particular district is losing money.

Mrs. **Forsythe**. I think I am probably the person who gets most defensive about Public Law 89-313. I don't mean this to be a defensive statement. I mean it as one of clarification. With my colleagues' indulgence, since they have heard me say this so often.

I think, Mr. Steinhilber, you were around when ESEA was conceived and you understand the background.

Mr. **Steinhilber**. Yes.

Mrs. **Forsythe**. To use our usual illustration, if a State educates the handicapped child in a State-supported or State-operated situation, it will cost, let's say, $1,200. The allocation to the local school district is $600 for a handicapped child, the same as it is for a non-handicapped child. Based on our formula, they are getting 50 percent of what the State allows for all children. Therefore, you have a situation where the handicapped child being educated in the local school district is getting $300 toward a $600 cost, but the handicapped child in the State-supported program, often residential is getting half of the $600 or $300 toward a $1,200 cost. He isn't really getting 50 percent. State-operated, State-supported schools require additional resources; both manpower and equipment, transportation, et cetera, necessarily increase the cost perhaps three times more than the cost in the local school district. We are not really giving them the equitable percentage share under that formula.

Mr. **Steinhilber.** I very well understand what happened with Public Law 89–313. What we are really suggesting here in our testimony is, maybe not a brand new approach, but a total concept for the education of the handicapped wherein State-operated schools are a separate program. And believe me when I say our record fighting for State programs on appropriations is good even though we are an association representing local school districts. I think counsel will testify to that. We have done that.

Our problem is trying to put together a total package which makes sense, not only here but makes sense in other places, makes sense at the State and local level. I hope that this is the kind of concept we are relaying to you. We really believe that the major breakthrough can be made with respect to the education of the handicapped. I am talking about dollars and programs far beyond what we are doing. We are just scratching at the surface now. When I heard testimony about how the Office of Education has gone from $20 million to $100 million, I got almost sick in the back of the room. As if this was a good omen; $100 million is really zero. It barely covers teacher-training programs, if it does that.

Mrs. **Forsythe.** Mr. Steinhilber, in your conclusion on page 10, you have the unmet educational needs of a cost of at least $3 billion per annum. Have you researched that? Do you have figures that you can provide?

Mr. **Resnick.** The figure that we were using there was derived from HEW publication. I can't cite it but it was an HEW study. I believe a similar figure was used in the Rand study. Of course, since the time when both studies were prepared, we have been in 2 to 3 years of double-digit compounded inflation. How one would now estimate that, I don't know.

Mrs. **Forsythe.** I am asking because we are always looking for new studies or data on costs of educating handicapped children.

Mr. **Resnick.** The administration at this point is suggesting $4 billion. Since we used their $3 billion figure, we would not hesitate to modify our statement.

Mrs. **Forsythe.** I believe Senator Beall's staff has questions for Senator Beall.

Ms. **Comiskey.** I just have one question. We have gotten a lot of mail from the State of Maryland, where of course, you realize it has been mandated that they provide free access to education for all children. Currently, there is still some cost borne by the parent. Do you think, in your local education agencies, that you can cover this cost? A lot of this deals with the alternate schools that are being used.

Mr. **Steinhilber.** You have asked, indeed, a very difficult question, one which, quite frankly, is hard to answer. Let me answer it by saying that I do not think that parents should be forced to pick up the cost of the education of their children.

But by saying that I also realize it is a very practical problem in trying to develop a budget at the local level. One may need only look at what has happened in Maryland, literally in this past week in Annapolis, to local systems seeking an adequate base in which we finance the schools.

I do not know the school board members of Montgomery County or Prince Georges County who were in Annapolis last year. All I am saying to you is to that we look to the Federal Government for additional moneys because we think that the reserves at the State and local level are about gone. And to say politically that every school district has a responsibility for the education of all children, even though there is a cost factor that has to be faced.

I am afraid we are on the firing line on that particular question, no matter what program is cut as a result. It is guaranteed that there will be parental groups for that school board meeting screaming to us and the House and the Senate. Therefore, we are looking for this kind of package, if you will, wherein the Federal Government would pick up a huge portion of the cost of the handicapped, wherein the parent would not have to pick it up and at the same time other students and other groups would not lose anything.

Ms. Comiskey. If the children are being mainstreamed into the public schools at this point do you think there is adequate training of the perspective teachers of the handicapped, not only in dealing with the handicapped but also the integrated classroom?

Mr. Steinhilber. Not going into specifics, but generally my comment is I think not. I think the training of teachers has not been sufficient. Indeed, I know we are going to be working on that particular issue, not only in this piece of legislation we have before us now.

There is no question that in certain school systems the teachers are well-trained. But I wouldn't say that is a generalization that can be categorically said across the United States.

Mr. Resnick. If I may develop this one aspect. In pressing for adequate training of teachers, perhaps that should be a separate program from the local entitlement approach that we are primarily addressing right now. We are concerned that there should be a certain amount of dollars behind each child in the program. That is, we would not want to see that child-based program money siphoned off into training programs as important as training programs are. To do so would defeat the local entitlement concept, which in our view is fundamental in generating the support to keep a $3 billion or $4 billion program alive. We would very much support a separate program for teacher training.

Ms. Comiskey. Do you find a lot of funds being used for either architectural improvements of the school or for transportation or books? Are there a lot of excess cost funds that are being used for these items?

Mr. Steinhilber. To the extent that you attempt to further mainstream the children, certainly certain architectural renovation would be necessary.

Ms. Comiskey. Would those funds be coming from the funds for the education of the handicapped child?

Mr. Steinhilber. I would say that we would not have a position on that as far as this particular bill is concerned. We might either take the position in favor of that proposal or another position altogether. First of all, the association has not really looked at the cost of renovation. Second, the funding of architectural changes—indeed, the funding of all construction—takes place in a different manner than maintenance and operation of schools.

Most construction is done by referendum, through a building and bond referendum subject to voter approval. So you have a slight variation and a large segment of our members who would oppose it because you would be mixing apples and oranges.

Special construction problems will occur in districts already bonded to the maximum debt under the State constitution. That is a very difficult question. I don't know how to really respond to it.

Ms. Comiskey. Thank you.

Mrs. Forsythe. Mr. Steinhilber, I want to ask you a rather philosophical question. I know that you are a person who keeps in touch with the local school board members. Why is it that when school budgets, local or county, or whatever the political subdivision, are formulated by whoever develops the budgets, that the first thing cut out of the budget are the programs for the handicapped? I particularly noted that because the Senator commented in his statement when he introduced this bill that he had read certain articles on the subject in the local newspapers.

Mr. Steinhilber. I don't think I can make a universal statement or a statement with respect to Prince Georges County in that particular instance. Indeed, there were some political reasons for that decision in Prince Georges County, to wit: If the money were cut out of another program there might not have been the hue and cry going to Annapolis, and to the county council, as did take place.

Indeed, for tactical reasons, it is not unusual for a board to cut out an athletic program, using the same kind of rationale, realizing there are certain sensitive issues which the public will get enthusiastic about. The board is able to change some decisions that were previously made by the public. There is a degree of this that does take place for local political reasons.

Therefore, when you see an article in the newspaper, it is sometimes misleading. But I would like to come back to your question by saying sometimes programs for the handicapped are actually cut. I can say that, normally, when that does take place, it is at the local level. Then the political forces at the local level, whether it is the local PTA or the business community in that area, normally bring pressure on the board when a cut has taken place. In the handicapped normally the pressure has been brought to the board to retain certain programs because the community wants those programs. Let us face it, after you take out all of the expenses anywhere from 85 to 95 percent of the school budget is going to be made up of salaries and you add on top of that popular local programs. It does not leave much. That is as best I can answer your philosophical question.

Mrs. Forsythe. Thank you.

Mr. Steinhilber. By the way, we don't believe this is what should take place. No question about it. We are appalled by it.

Mrs. Forsythe. Miss Walker?

Miss Walker. I have two more questions. One is from Senator Cranston. Just preceding your testimony we heard from Kate Long, the special education professional, from West Virginia. In her remarks she stated her opposition to an excess cost because of the incentive to overclassify children in the classes. Can you comment on her concerns?

Mr. Resnick. It really is a two-part question. We have not really had full data available to us so that we can evaluate the benefits of excess cost or any other factors that can be put into an allocation formula. One concern that does come to our attention with respect to excess cost is that in certain States, especially in highly urbanized States, the situation may exist that there are many other kinds of special children—for example, bilingual children or culturally disadvantaged children. To the extent that those States have to make a special effort for the occurrence of these other special children within their borders they will raise the appraised cost of educating nonhandicapped children and thereby reduce their excess costs for the handicapped.

Restated, by addressing the needs of other special children, less money than what might otherwise be available will be spent for handicapped children. So, in effect, the excess costs formula works to the disadvantage of those States that have these other kinds of special children.

Mr. **Steinhilber.** We are somewhat concerned in excess costs. In areas, for example, where there is a high concentration of handicapped children, there are excess costs in and of itself and rightly so.

If the definition of excess costs for handicapped is related to this reality, the handicapped in an area of high concentration of the educationally disadvantaged might receive less money than in some suburban area and indeed in some rural area which has very few of those high costs. Even we have an uneasy feeling about that.

Mr. **Resnick.** With respect to the question on classification, it is our understanding that children do have to be classified for the purpose of defining what kind of program is going to be provided each particular child.

We recognize that certain kinds of handicaps require the commitment of more resources than other kinds of handicaps. Hence so as long as children are going to be classified anyway, and if it is recognized that there is a cost differential among programs, then perhaps in refining the local entitlement approach it may make sense to cost-weight children according to the particular classification that they fall under. By so doing, the money that is being attached to each child will more likely reflect the actual costs of the service rather than being an overpayment for children who have one kind of handicap or an underpayment to others.

Mrs. **Forsythe.** Are you suggesting that programs do the labeling?

Mr. **Resnick.** Well, the word labeling has its connotations. But I believe as long as classifications are going to exist and proper procedures are taken so as to protect the child and his family in terms of any embarrassment that it could very well make sense to refine the formula in that way.

Miss **Walker.** May I ask a question about the compliance mechanism that you mentioned in your statement? I understand you to be saying that you believe that there is a need for stronger enforcement and stronger compliance steps beyond what have already been taken in the law in Public Law 93-380. Are you suggesting that that take place by the Office of Civil Rights as a mechanism?

Mr. **Steinhilber.** Let me rephrase it because I think in our effort to become diplomatic we did not make any references to S. 6. Indeed, we have some severe problems with the detailed language of S. 6. We contend that enforcement should take place through the Office of Civil Rights under the requirement that no discrimination shall be made on the basis of handicaps. Title IV of the Civil Rights Act or indeed the sex discrimination provisions in the higher education amendments of 1972, are mechanisms whereby we could guarantee compliance.

I think that is basically where you are standing. It can be accomplished with a minimum of difficulty with all parties involved.

Miss WALKER. You would suggest that that compliance mechanism be involved in areas where rights of the child are involved, for instance, as a result of Public Law 93–380, the requirement of due process procedures, the provision for prohibition of discrimination on the basis of handicapped, and other areas to protect the rights of the child?

Mr. STEINHILBER. Right.

Miss WALKER. Do you believe that that would involve as under title 6 and title 7 of the Civil Rights Act both a complaint process and a data collecting process which would allow oversight and compliance?

Mr. STEINHILBER. I would hope so. I gather we are going to have a series of anticivil rights amendments to limit the collection of data. We say right now we will oppose those kinds of amendments, if that is your concern. The Office of Civil Rights should have the authority to collect the data to find out where the problems exist and not be caught with insufficient data in rightful prosecution where discrimination takes place.

Miss WALKER. I believe there are other Senators who will have questions.

Mr. ANDREWS. I have one question. In your opinion do you think that if enacted the cost-plus formula can be fairly administered?

Mr. STEINHILBER. Well, I am not quite sure how to answer your question.

Mr. ANDREWS. I just want your opinion. Do you think it can be administered?

Mr. STEINHILBER. Are you talking about——

Mr. ANDREWS. Excuse me; I am switching my contracts—an excess costs formula.

Mr. STEINHILBER. Do I think excess costs can be administered? It would be very difficult, very, very difficult.

Mr. ANDREWS. Thank you.

Mrs. FORSYTHE. Thank you very much, Mr. Steinhilber. Senator Randolph wanted me to say on behalf of himself and the members of the committee, "Thank you for appearing here today." We will be sending you additional questions.

Mr. STEINHILBER. Indeed, when we return, I will be more than happy to help with the work of any of the individual members and the staff.

[The prepared statement of Mr. Steinhilber and Reverend Smith along with other information follows:]

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Statement on behalf of

National School Boards Association

by

August W. Steinhilber
Assistant Executive Director
Office of Federal Relations
National School Boards Association

on

Education of the Handicapped Legislation

before the

Subcommittee on the Handicapped
Committee on Labor and Public Welfare
United States Senate

Wednesday, April 9, 1975

Mr. Steinhilber is accompanied by:

Mr. Michael A. Resnick
Legislative Specialist
National School Boards Association

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Mr. Chairman, my name is August W. Steinhilber, and I am the Assistant Executive Director for Federal Relations of the National School Boards Association. I am accompanied today by Michael A. Resnick, Legislative Specialist of the Association.

The National School Boards Association is the only major education organization representing school board members--who are in some areas called school trustees. Throughout the nation, approximately 80,000 of these individuals are Association members. These people, in turn, are responsible for the education of more than 95 percent of all the nation's public school children.

Currently marking its thirty-fifth year of service, NSBA is a federation of state school boards associations, with direct local school board affiliates, constituted to strengthen local lay control of education and to work for the improvement of education. Most of these school board members, are elected public officials, accordingly, they are politically accountable to their constituents for both educational policy and fiscal management. As lay unsalaried individuals, school board members are in a rather unique position of being able to judge federal, state and local relationships, such as the "Education for All Handicapped Children Act," purely from the standpoint of public education, without consideration to their personal professional interest.

The National School Boards Association fully supports the concept of federal funding for the purpose of assuring that all handicapped children will receive an opportunity for a meaningful public education.

A. Background/Recognition of Need

At the outset Mr. Chairman, we wish to express our appreciation to you and the members of the Subcommittee for moving expeditiously in your consideration of this legislation. As we all know, more than 10% of our school-aged population is afflicted with some form of handicap which can impede their educational attainment--and, ultimately detract from the fulfillment of their adult lives. Of these 7 million children, about 1 million do not have access to any special education programs. Unfortunately, these are frequently the very children who are most in need of such services.

From the standpoint of parents, the time for action is today--as understandably evidenced by law suits filed in over twenty states which allege that school systems are denying their children equal protection under the laws. In this regard, it is the goal of the nation's local school boards to provide each handicapped child with access to that education program which best suits his needs. Unfortunately, the amount of additional funds required to achieve that goal are estimated to be in excess of $3 billion. As staggering as this amount might seem, the financial problem reaches even fuller dimensions when placed within the context of the struggle which school districts are undergoing to maintain current service levels. Specifically, a 30% compounded rate of inflation over the past three years has eroded all services, future employe cost of living requirements will have to be met, as well as increased energy costs--all at a time when state and local revenues are falling or are being diverted by the effects of recession and unemployment.

The point is, Mr. Chairman, as desirous as local school districts are to meet the high cost needs of handicapped children, funds from local resources are not sufficient. Restated, unless the federal government is willing to underwrite a substantial portion of the cost, the need will continue to be unmet or at best only partially fulfilled--and then only at the expense of some other groups of children.

In urging the Subcommittee to support a large scale financial commitment for the education of these children, we recognize that you will be in direct conflict with the position taken by the Administration last year. At that time, the Administration argued that the federal role should continue to be one of capacity building rather than one of general support. That argument was buttressed by the assertion that existing state surpluses and General Revenue Sharing could adequately finance the education of all handicapped children. On both counts it should be recognized that there are only a limited number of social needs to which those funds can be apportioned. Since last year, those state surpluses have vanished, if indeed they ever existed other than as bookkeeping entries. Similarly, in practice, General Revenue Sharing, which does not provide direct aid to local school districts, has only yielded about $300 million per annum (i.e., 5% of General Revenue Sharing) for new elementary and secondary services.* Accordingly, we suggest that the financial basis underlying the Administration's position favoring a limited federal involvement cannot be supported.

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*To underscore that point from a slightly different perspective, an Administration statement that 65% of the states' share of General Revenue Sharing is expended on education (including elementary and secondary, higher education, manpower training, school tax relief), clouds the overall picture of the 5% which is spent from the total program on new elementary and secondary education services.

B. Position on S. 6

Hence, if a federal program of general support for handicapped children is a financial necessity, the question raised is what is the best way of translating that aid into services?

The National School Boards Association believes that S. 6, as originally drafted, has served the valuable purpose of focusing national attention on the needs for a massive infusion of federal dollars. However, we have withheld support with regard to certain of the program specifications--especially those relating to the funds distribution formula, the method for developing program design, and some of the accountability procedures. Instead of restating our technical critique of S. 6, we have appended a segment of our testimony of last year to the prepared text. To move in a more positive direction, the balance of our statement is devoted to advancing those program components which we believe would make for a more workable bill at the local level.

C. Suggested Modifications to S. 6

By way of prelude to our recommendations, recently, several of the nationally based organizations met to discuss this legislation. A staff memorandum representing some of the areas of agreement and disagreement have been attached to our statement for your consideration.

In presenting the program elements supported by the National School Boards Association, I will be relating to the commitments which our organization made in that memorandum.

Formula Entitlement

It is our view that a program which could involve an expenditure of $3 billion per year must distribute federal funds on a local formula entitlement basis--as opposed to a discretionary project grant basis. That is, the program is too comprehensive for allocations to be determined by federal or state discretionary project grant awards. Hence, as in the case of Title I of the Elementary and Secondary Education Act, or the Impact Aid program, funds should be distributed to local school districts, according to the number of target children residing in each local area.

Our rationale for pegging the funds to the child is based on certainty. If the federal level is going to be a major source of funding for these children, a local school district will need to have a basic idea as to how much funding it is going to receive from year to year--especially if plans must be developed on an individualized basis. Furthermore, the local entitlement approach ensures that the amount which any school district receives will bear some relationship to the cost of educating the children involved. Finally, local entitlement provides school districts with the kind of certainty which is vital to their overall governance responsibilities. Specifically, if a state under the project grant approach changes its funding pattern, a local school district may find itself subject to court order for noncompliance, and perhaps subject to a termination of all federal funds because it could not manage a timely budget alteration to offset a sharp reduction in project grant funding.

If local entitlement is adopted, the formula used can easily be weighted to accommodate for any number of factors such as effort, excess cost, or average income. In this regard, since children will have to be classified in order to provide them with the appropriate service, those classifications can likewise be weighted to allocate funds--especially since the cost of serving certain classifications of handicapped children will vary markedly with the cost of education others.

In urging a local formula entitlement approach, three related comments need to be made. First, while forward funding would further alleviate our concern with certainty, forward funding without local entitlement is not the answer--especially since the Appropriations Committee is not obligated to fund in that manner. Similarly, even if there is forward funding, under the project grant approach, a particular state would not be required to conform its fund distribution plans to the local budget cycle.

Second, as in the case of Title I, school districts should [illegible] accountable by requiring adherence to the specifications of a general state plan. We would go a step further and urge that school districts should also be held accountable to parents as well by requiring that individualized plans be developed in discussions with parents, with enforcement through the procedures of section 613(a)(13) of the Education of the Handicapped Act. Indeed, especially since the children involved are highly individualized, the notion of local school district flexibility within a general state plan concept would seem a most desirable balance of the state, local, and parental interests.

Third, if the Committee adopts a local entitlement approach, provision must be made for both state administration and state operated programs. State administration should be funded along the percentage suggested in ESEA Title I. Similarly, state operated programs should be funded as a separate program or title. In this regard, one problem with

ESEA Title I is that state operated programs are fully funded "off-the-top" with the remainder of the appropriations then distributed to local school districts. The result is that equally deserving children can have a better program by the happenstance of being enrolled in a state institution--regardless of the relative wealth or effort of the local agency vis-a-vis the state agency. In our view, the separate program approach for state operated programs produces equity for the children and forces the states to be more accountable for their own expenditures.

2. Program Design

In supporting the notion that individualized plans should be developed with parents, NSBA opposes the notion that such plans must be 1) mutually agreed upon, 2) or that once developed such plans take on the character of a contract, the performance of which is enforceable in court. As highlighted in the appended memorandum and detailed in the accompanying testimony, state and local units should not be forced into a two party agreement, because, in addition to serving the parents involved, school officials also have a separate legal obligation to make decisions about children and the overall management of the school systems. Furthermore, to the extent that plans must be mutually agreed upon, both the planning process and flexibility in its aftermath will be unnecessarily constrained. More importantly, at some point "mutual agreement" relieves school officials of being accountable for the overall quality of their "negotiated" programs.

Although S. 6 did not create a right of court ordered specific enforcement of mutually agreed upon plans, a passing comment should be made. If an agreement is brought to court for specific enforcement, an action at equity is involved which then requires a judge to balance and evaluate the substance of the education program at issue. This raises certain questions of judicial expertise and separation of powers. Furthermore, as a matter of "equal protection" the question is raised as to which parents of the other classes of our nation's 50 million school children should be entitled to specific enforcement of individualized plans.

In taking this position against treating individualized plans as two party agreements or as specifically enforceable contracts, we hasten to reiterate that parental consultation during both the planning and implementation stages is vital. Furthermore, a mechanism should exist to ensure that local school districts and state agencies are in compliance with requirements of the federal program.

3. Accountability

In urging an accountability process, it would appear that two objectives need to be served: 1) to ensure that all handicapped children who are eligible to participate are actually given access to a program, and 2) to ensure that programs sufficiently fulfill the particular needs of the student.

With respect to the first objective, "access", the National School Boards Association believes that all handicapped children should have access to a public education. (However, where medically inadvisable, the child should not be compelled to pursue that access.)

In order to ensure that access is not improperly denied to these children, we urge that the legislation confer upon HEW's Office of Civil Rights (OCR) the appropriate compliance authority. If after seeking voluntary compliance, and, in turn stronger measures, a child is still denied access, a termination of all Office of Education funding may have to be OCR's ultimate step. However, if OCR is given the latter power, we urge that the legislative history should require federal officials to consider the budgetary difficulties that sharp and untimely reductions in federal funds may pose at the local level--especially since the federal dollar may very well be the principal revenue source for these programs. Similarly, given the tooling up problems which are bound to occur in the first year of the federal program, we urge that OCR should not be permitted to terminate funding for breeches occuring during a school district's first year under the federal program.

4. Interim Measures

In the event a comprehensive law cannot be enacted in the immediate future, the question is raised whether federal aid for handicapped children should be limited to existing programs, or whether an interim emergency expansion, such as the since lapsed "Mathias Amendment" should be enacted?

Although an emergency provision would yield more aid than what is permissible under current law, there would still be a shortfall in meeting the legislative program and financial needs which we have described today. That is, an interim measure means less than full substantive quality and that many children will continue to be unserved. Hence, while an interim measure is preferable to the limitations of the existing law, we hope that the legislative process permits immediate consideration of a more comprehensive measure.

Conclusion

In conclusion, the unmet educational needs of the nation's handicapped children, which will cost at least $3 billion per annum, cannot be financed unless there is a major commitment by the federal government. Although the S. 6 model is an important step forward, NSBA has withheld its support for the bill because we believe that 1) funds must be allocated on a local entitlement basis (regardless of which formula weighting factors are selected--i.e., income, excess cost, et cetera), 2) while parental participation in individualized program design is essential, the bill, by requiring "mutual agreement" on plans, overreaches the prerequisits of that participation to a point where the responsibilities of local school districts to the public and to the children in question would be compromised, and 3) that with the compliance requirements suggested by NSBA, the Office of Civil Rights should enforce matters relating to access, whereas the review system provided under section 613(a)(13) of the Education of the Handicapped Act should apply to more substance questions.

Mr. Chairman, on behalf of the National School Boards Association, I wish to thank you for this opportunity to testify.

APPENDIX A

NATIONAL SCHOOL BOARDS ASSOCIATION

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Address reply to:
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Segment of the National School Boards Association's 1974 Statement on S. 6

Funding on the Basis of Local Entitlement Not State Allotment

Section 8(a)(2) of the bill provides that the "state educational agency shall distribute to each local educational agency of the state the amount for which its application has been approved. . . ." Section 6(c) partially limits the states from having open ended discretion in determining the distribution of federal funds. Specifically, it requires that the states distribute funds in a manner which will "reflect" the relative expenditures made within the state "by state and local agencies." At the same time, the distribution must be made "on the basis of consideration of" relative geographical need and relative need within subgroups. However, upon closer examination these distribution standards are not precise and are somewhat inconsistent (i.e., effort versus need). In terms of effort, it is not clear whether the standards are limited to state effort versus total local effort (for determining total local grants) or whether "consideration" must also be given for the effort of one local agency in relation to all local agencies (for determining each local grant from the total amount available for local grants).

Given the fact that the level of full funding of the program may exceed $3 billion, the state agency should be required to distribute said funds pursuant to a congressionally determined local formula entitlement rather than the fairly open distribution plan currently appearing in S. 6. In short, a distinction should be made between the power of the state to approve the merits of a local plan and the power of the state to determine the dollar level as well.

But even with respect to the development and operation of the state plan, the program would probably be more effective if the state's role was more in the nature of a program coordinator than an initiator of local program requirements. This view can be supported on several grounds. First, if indeed the local educational agency must work out individualized programs with parents and provide due process hearings in cases of disagreement, it should also have the flexibility to make final program decisions.

As currently drafted, S. 6 invites impasse with parents to the extent that local boards would only serve as an intermediary to pass messages of disagreement between parents and the state agency. But more fundamentally, unless the local program is objectionable for good cause, there would appear to be questionable value to empowering the state agency to reverse approaches developed "on-the-scene" just to operate the program "its way". That is, the local level understands how a particular program fits into the total management of its school's operation and how it can best serve the needs of the local community. Since the bill may, in effect, actually require that states compel local school boards to apply for assistance in order to meet its section 6(a)(1) assurance that all handicapped children will be given a free public education, local boards should not be forced to lose their autonomy in order to build the handicapped program into existing operations (i.e., existing operations for handicapped children as well as the total school operation.) It should be noted that if a local agency wishes to avoid state imposed regulation and can afford to finance its handicapped program solely from local funds, that local effort will yield the state level three times the amount in federal funds for redistribution to other school districts. In short, NSBA must oppose the power leverage which S. 6 places at the disposal of the states.

In urging that S. 6 be drafted in the nature of a local formula entitlement program, per pupil payment rates should vary with the educational cost associated with the various subclasses of handicap. Since the bill already requires that these statistics be maintained for the purpose of determining state allotments, the total paperwork would not vary significantly from the current draft. As in the case of ESEA Title I, the federal government's largest education program, the targeted children would simply be counted and an application for payment would be submitted to the federal level.

Legal Responsibility of Local School Boards

Section 6 (a)(4) of the bill provides that the local educational agency must maintain annually updated, individualized written programs which are "developed and agreed upon" (see definition 9 under section 3) with parents and that disagreements thereon shall be subject to impartial due process hearings. In addition to these provisions regarding individualized programs, section 6 (a)(6) requires that due process hearings shall be afforded to determine changes in the educational placement of children and that independent educational evaluations shall be obtained for parents on request.

Although these provisions may have a certain emotional appeal, they also pose a serious interference with the operation and authority of the local educational agency.

Legally, the local educational agency is charged with the ultimate responsibility for educational policy within the community. Accordingly, any decision requiring the joint concurrence of parents in devising an "educational plan" (see definition 9) is automatically at variance with that responsibility.* In this regard, while consultation with the parents of special children is important, we do not believe that parental agreement should be required just because a child happens to be handicapped. Or restated, should the existence of a handicap create a right on the part of parents to determine the educational program for their children -- especially in cases where the handicap bears no relationship to either the academic capabilities of the child or to most aspects of the student's total educational program? Or even if such a relationship does exist, are school authorities less able to make final education decisions for these children (as opposed to joint decisions) than they are for culturally disadvantaged, bilingual, or any other group of children? There is a serious question whether joint decision-making regarding programs for handicapped children opens an equal protection argument to all other children that the educational element of their program should be individualized, as well as subject to joint development and agreement with parents.

Also, by requiring educational plans to be developed pursuant to joint "agreement" with parents, there is at least an implication that the parents on behalf of their children have a contractual right. Unless that implication is negated parents may then be inclined to seek the precise execution of their "agreements" in court -- regardless of the educational and overriding policy considerations of the local educational agencies to modify same. The potential cost and confusion associated with parental enforcement of seven million such contracts would result in total chaos for both the courts and public education systems if the extension of the parental "agreement" to handicapped children necessitated that the same rights be granted to the 43 million other children in the public school system. In this regard, it should be underscored that the House/Senate conferees in their recent work on S. 1539 solidly rejected an amendment to the General Education Provisions Act which would have placed similar contractual rights within the powers of the U.S. Commissioner of Education.

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*In speaking of educational responsibility, we are including the local board's governmental responsibility to the community at large, as well as to the individual students who are served. Educational policy decisions must frequently take into account such factors as unemployment, the local economy and other trends which relate to the tax base and future community support. These legitimate governmental concerns cannot be given their proper due if programs must be developed on a joint two-party basis with parents.

APPENDIX B

NS
BA
NATIONAL SCHOOL BOARDS ASSOCIATION

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MEMORANDUM

TO: Ray Peterson, Council of Chief State School Officers
Fred Weintraub, Council for Exceptional Children*

FROM: Mike Resnick, National School Boards Association

SUBJECT: Forthcoming Handicapped Legislation

DATE: April 1, 1975

This memorandum summarizes my understanding of the conversation which took place among ourselves (and Joe Ballard, Council for Exceptional Children) on March 21.

1. Formula -- Although various approaches were discussed (e.g., state incentive based on children involved in programs, excess costs, income factors, et cetera), an effort was not made to reach any agreement. Related issues such as the need to identify students and to weight entitlements according to class of handicap were discussed without commitment.

2. Local Entitlement -- The point was made that for a program which would involve a per annum appropriations of $3 billion, school districts should have certainty as to the amount of funds which they can expect to receive from year to year. This concern was reinforced by the fact that once a school district becomes dependent upon a program of this size, changes in the intra-state allocation of funds could result in school districts losing all federal funds for failing to meet compliance requirements. Accordingly, the Council for Exceptional Children and the National School Boards Association agreed that the handicapped program should allocate funds on a local entitlement basis--i.e., in a manner paralleling ESEA Title I. In this latter regard, it was also agreed that local school districts must use the funds in a manner which is consistent with the overall state plan. The Council of Chief State School Officers have alternative approaches under consideration.

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*After reviewing this memorandum, James R. Kirkpatrick of the American Association of School Administrators, indicated that AASA's position parallels that of the National School Boards Association's on all five points.

The point was raised that in some instances, there may not be a sufficient number of children who could be placed together in order to operate an adequate program. Hence, it was agreed by the Council for Exceptional Children and the National School Boards Association that local school districts who could not meet minimum state plan requirements due to a lack of overall dollars should have an option (subject to state plan requirements) to operate on a joint basis or to enroll exceptional children in a state operated regional program. With regard to the regional approach, it was further agreed that for the purposes of the fund allocation formula, the funds should continue to follow the child on a local formula entitlement basis.

3. Program Design -- It was agreed that the state plan should set forth general criteria. For the most part, actual program design would be developed between the local educational agency and the parent. In this latter regard, for purposes outlined in the paragraph on compliance, it was agreed that programs must be designed as a result of discussions between the LEA and parents, as opposed to being mutually agreed upon between the two.

4. Compliance -- Compliance was discussed as a two part issue: a) whether all handicapped children should have access to an education, and b) the mechanism by which educational agencies would be held accountable for fulfilling individualized programs.

   A. Access -- The point was raised that, regardless of the nature of the handicap, a child would not be denied access to an education. The qualifying point was made that once access is granted, the substance of the program must take into consideration the cost and expectations associated with each child. Hence, it was agreed that all children should have access to an education. It was also agreed, in recognition that it is not currently possible to give each child all the services needed, that at least a minimum education program should be provided.

   B. Accountability -- The accountability of educational agencies was discussed in two parts: a) access to an opportunity, and b) adherence to program format. On the question of access, the Council for Exceptional Children and the Chief State School Officers indicated a preference for enforcement at the state level, whereas the National School Boards Association preferred enforcement through the Office of Civil Rights.

   The Council for Exceptional Children noted that the use of the judicial system can be an effective enforcement tool, and expressed concern that the Office of Civil Rights might be too understaffed to produce the same level of effectiveness. The Council of Chief State School Officers raised the point that there should be some internal appeal system within the education system prior to involving judicial action. Both agreed that a state compliance commission could do the job. The National School Boards Association raised the point that in dealing with a federal law, the federal level best understands the intent and can assure uniformity of standards through the nation. In addition, the National School Boards Association was concerned that unless the compliance office was separate from the program office (either federal or state depending on how the law is drafted), there may be a tendency by the program office to informally turn to unintended means of seeking compliance (e.g., a slow-down in releasing funds).

The point was made that a termination of all Office of Education federal funding should be the ultimate means for assuring compliance with access requirements. The qualifying point was made that in recommending as drastic a step as a total cut off of funds, recognition should be given to the fact that federal funding in a given year may not be sufficient to provide access to all children. Furthermore, there may be tooling up problems in the first year which could result in a denial of access for some students. Hence, NSBA recommended that a minimum federal appropriations should be required to trigger the fund cut-off provision in any given year. An agreement reached was that there would not be an access compliance procedure in the first year the program is funded. It was also agreed that further discussion of access compliance procedures would be required.

With respect to accountability for the substance of programs, the point was made that parents should have a compliance mechanism since programs would be operated on an individualized basis. The qualifying point was raised that individualized plans do not suggest a contractual relationship between parents and the LEA, and therefore specific enforcement or similar court remedies were inappropriate.

After some discussion of accountability, the overall nature of state and local government, effect of extending similar remedies to other classes of children, and the intentional rejection of specific enforcement language by House/Senate conferees during deliberation of P.L. 93-380, an agreement was reached. That is, local school districts should be held accountable through existing third party administrative oversight procedures, i.e., the Stafford Amendment. However, in order for programs to fit into the governance framework they should be developed in consultation with parents as distinguished from a contract or agreement. Hence, to avoid giving an improper impression, it was agreed that terminology such as "mutual agreement" was inappropriate. In addition, it was agreed that specific performance was an inappropriate enforcement mechanism.

5. Single System -- The point was raised that in the case of institutionalized handicapped children, the state or local educational agency, as the case may be, should bear the responsibility for educating all such children. It was agreed that in fulfilling their responsibility to provide the educational component in the care of such children, the educational agency should be permitted to contract for the required services.

STATEMENT OF REV. GEORGE SMITH, FIRST VICE-PRESIDENT OF THE NATIONAL SCHOOL BOARDS ASSOCIATION

REPORT ON SPECIAL EDUCATION

The San Diego Unified School District has been an interested pioneer in the development of a very wide variety of special education programs for school pupils having special needs. These programs have been developed in San Diego as needs were systematically noted by the school staff and programs have been developed to meet these needs. There are many examples of this process. The program in San Diego for educable mentally retarded pupils was in operation long before state or national attention was being paid to this problem. There were programs for pupils in the educable mentally retarded group prior to the state legislation which made these programs mandatory in approximately 1949. In addition to programs for retarded the San Diego Unified School District has conducted special programs for children with learning disabilities since the early 1950's. Our program for gifted pupils was started in approximately 1950 and has been actively in operation since that time. It will be recognized that this was far before the Sputnik Era when such programs became a matter of international attention.

Special education programs in San Diego include all of the following which aim at providing a full gamut of services to all children with special educational needs. We have a home teaching program for pupils who are unable to attend school for reason of severe illness or who are actually hospitalized. This program is conducted by teachers who go to the pupils' homes or via multiple telephone hook-up so that the teacher can conduct a class of homebound students over the telephone. With the assistance of special federal funds we anticipate experimenting with special equipment for next year which will allow the telephone teacher to present materials visually over the telephone hook-up. Language, speech and hearing services are provided on a regular basis to individual pupils needing these services. The speech and hearing teachers are all, of course, specially trained and provide service to pupils at all schools in the city. Our program for deaf and severely hard of hearing children is conducted both by special classes at regular schools and by integrating pupils with hearing problems in regular classes with special assistance provided. Our program for these pupils begins usually at age three and the pupil is well on the way toward handling regular school work by the time of ordinary first grade admission. During this past two years the district has added a program which now includes 36 children who are aphasic or severely communication handicapped. These pupils are in special classes with six per class and with specially trained teachers. They are children of regular school age who on admission to the program often are totally unable to communicate. For the orthopedically handicapped we have a special school with specially trained instructors and necessary equipment. The aim for these pupils is to enable them to overcome their handicaps so that they may take their place as soon as possible in regular school programs. A great many of them presently are in such programs, particularly in the secondary schools. Our program for visually handicapped and blind includes all the standard approaches and has received national recognition for pioneering work for use of the Optacon reading device. The pupils are, of course, taught to read Braille but the use of the Optacon enables these pupils by the use of this electronic device to read regular print from periodicals or other such material without having any special treatment of the printed material. The pupils read by sensing different vibrations through their finger tips. Again, San Diego has pioneered in mobility training for blind pupils, and one of our instructors in this field has just been invited to spend some time in Germany to teach these techniques to instructors in continental Europe. By this mobility training our blind pupils learn, by the use of only a long cane, to go around the city by themselves, do their own shopping, ride buses, and perform other necessary life functions which are extremely difficult for the blind. In this connection we are developing daily living skills instruction for blind and orthopedically handicapped so that they may work at school with actual home equipment so as to be able to take care or themselves.

We have in San Diego two schools for severely mentally retarded pupils. Initial emphasis in these programs is that of learning ordinary self-care techniques. Some of these pupils are doing beginning reading in the upper age groups at the present time. In addition, we have been one of a local consortium which is providing vocational training in a sheltered workshop setting for retarded and other handicapped. Many of them are able to earn significant amounts of money in this type of setting, and some will be able to work in regular industrial settings as they get older.

There are approximately 2,400 pupils in our programs for educationally handicapped and learning disabled in our regular schools. These classes are conducted with small class sizes by teachers having special training. Pupils do not remain indefinitely in these classes but are brought as rapidly as possible to a point of competency of being able to take their place in regular instructional settings. Students and programs are periodically reevaluated. During this school year approximately 600 pupils are in classes for educable mentally retarded where there is an emphasis on modified curriculum to enable these slow learning pupils to achieve maximum education. There is a significant emphasis on work experience programs at the high school levels so that, here too, these pupils may become self-supporting.

Our gifted program mentioned above includes more than 6,000 pupils this year. This program has been acclaimed throughout the state and nationally as a model in gifted education. The list of pupils who are graduates of this program and who have received scholarship acclaim along with spectacularly successful college careers is impressive. There is a considerable use of San Diego's rich community facilities in supporting our gifted program. Salk Institute has cooperated regularly with our high school program. Other research facilities, including the Naval Electronics Laboratory, have made fine contributions and continue to do so. Dr. Jacob Bronowski was one of the early and steadfast supporters of our program.

In order to maintain specialized programs of this type a number of supporting facilities are essential to maintain progress in the programs and maximum effectiveness. Under state law and district policy any candidate for one of these programs must have had a thorough individual evaluation with reference to his abilities or handicaps, and must be considered and certified by a screening committee which consists regularly of a psychologist, a physician, a special education administrator, and a special education teacher. Other resource personnel are called in as needed. These committees not only see to the admissions of children in a proper manner, but also assist in making instructional plans for these children.

Children having special difficulties also need services other than those that can be provided directly within the classroom. Obviously special curriculum development is necessary. We have a regular program of curriculum development for all these special fields. Additional counseling is often necessary and our trained district counselors spend a very significant proportion of their time in working with pupils in special education and with the families of these pupils. Almost without exception each pupil in our special education programs receives complete psychological evaluation as needed for his proper placement and guidance. The committees mentioned above are charged not only with admission but also with periodic individual reevaluation of the pupils in the programs. Regular evaluations are also conducted of the programs themselves and their effectiveness.

Thus it may be seen that the San Diego Unified School District has been for a great many years a constant and noteworthy supporter of special education for all children having special needs. To summarize the figures quoted above, approximately 10,000 pupils in the academic year of 1974-75 in San Diego Unified School District have been given special educational opportunities in programs specially geared to their needs through a balanced program including specially trained teachers, aides, and specialized curriculum and equipment.

However, in these times of inflationary costs for all of education as well as all costs of human living the maintenance of special education programs is becoming increasingly difficult. It is true that the State of California provides special apportionment allowances in various amounts for pupils in these special education programs, along with regulations and specific mandates. These allowances have become increasingly inadequate as time has gone by. Most of them were entered into the State Educational Code as stated dollar amounts, and all of us know what has happened to stated dollar amounts during the past ten years. Education of pupils in special education programs is a very expensive operation. We have no doubt that the effort to maintain these programs is worthwhile despite its expense. It seems extremely probable that special education of a handicapped pupil may be a social economy in the sense that he will become through education a self-supporting citizen and not a charge to the welfare system. However, in the present situation a large share of excess costs of special education for handicapped children must be taken from the general fund which applies to education of all children. It does not seem fair that the education of all children should be depleted in order to accomplish this very worthwhile purpose. Our school district must pay from general education funds the excess cost necessary in special education. The detailed table below shows the percentages of cost borne by the school district for the various special programs maintained.

TABLE I

Program	Percent of Program Cost Contributed from General Funds
Educationally Handicapped	25%
Educable Mentally Retarded	44%
Aphasic	Adequate
Speech and Hearing	52%
Visual (Special Day Class)	Adequate
Visual (Pull Out)	53%
Orthopedically Handicapped (Special Day Class)	42%
Pregnant Minors	24%
Homebound	61%
Hearing (Special Day Class)	15%
Deaf-Blind (Special Day Class)	34%
Trainable Mentally Retarded	37%
Transportation of Handicapped	42%

The total district contribution from general education funds to the maintenance of these programs for the year 1974-75 will be approximately $3,000,000. Federal funds for handicapped would have not been of special assistance with this problem since almost without exception these funds at the local level have been on a categorical grant basis. Emphasis has been on innovative programs. We, as may be seen from the above, are interested in the development of such programs. However, we are facing great difficulty in maintaining regular instructional programs for special education students, even though these programs are of proven effectiveness.

ATTACHMENT

Program	General Fund Contribution Percent of Non-categorical District Contribution	Special State Allowance Mean Special Apportionment Funding Per A.D.A. Unit	Actual Excess Cost Necessary Special Apportionment Funding Per A.D.A. Units to Cover Excess Costs
Educationally Handicapped	25%	1,485	2,136
Educable Mentally Retarded	44%	481	1,358
Aphasic	Adequate		
Speech and Hearing	52%	2,157	4,519
Visual (Special Day Class)	Adequate		
Visual (Pull Out)	53%	2,150	4,534
Orthopedically Handicapped (Special Day Class)	42%	1,014	2,209
Pregnant Minors	24%	715	1,170
Homebound	61%	1,795	5,719
Hearing (Special Day Class)	15%	2,619	3,210
Deaf-Blind (Special Day Class)	34%	2,675	4,383
Trainable Mentally Retarded	37%	928	1,831
Transportation of Handicapped	42%	389	673

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4-8-75

April 1, 1975

Goodman via Stegeman

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COST ANALYSIS OF SPECIAL EDUCATION
PROGRAMS

As you requested I am enclosing several different analyses of district special education programs with relation to state special apportionment income.

Attachment "A" is a chart including all programs where the funding problems are critical which shows several different types of analyses of district special education costs. The first column in the chart shows the percent of the total cost of program which is paid by the district from non-categorical district funds. The second column shows the actual average per a.d.a. unit of special apportionment funds received for the year 1974-75. This figure was developed by dividing the projected special apportionment income by the program a.d.a. and does not relate precisely to the stated allowances in the state education code. These are actual dollars received and will vary from the stated figures because of the inclusion of summer programs in some cases, and because of some combining of programs having different unit allowances.

The third column was constructed by adding the present special apportionment income to the district contribution from non-catagorical funds and dividing this total by the program a.d.a. This figure represents that amount of special apportionment income which would be necessary if the state actually paid the excess cost of operating these programs.

It is interesting to note that the longer established programs tend to be the less adequate in state funding. This is obviously because the allowances were stated in the code in dollar amounts and have been unable to keep pace with increased costs. In other cases, such as the speech and hearing program, there is no change in the need for a regular program for the pupils involved and the program cost is completely excess over and above general education program costs.

Attachment "B" is an itemized breakdown of the program projections for 1974-75 from which the figures in Attachment "A" were developed.

It is probable that any comparison available at the present time to the costs in other districts for these same programs would be inadequate since it is my belief that our complete and accurate cost accounting system is almost entirely unique within the state. In general my observation is that many other districts include in their costs of special education only those costs which are related in the classroom. These figures do not include the required program support costs such as the required activities of psychologists, curriculum development, etc.

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Goodman via Stegemen
April 1, 1975

The real conflict shown by these data is that the state sets up very stringent rules on program conduct, class sizes, and other such matters. These rules must be followed and the following of these rules makes it completely impossible for a school district to conduct the program within the special apportionment income allocated. At the present time the only alternative is even more expensive. In the absence of an available special program the school district would be essentially compelled to grant applications under Chapter 8.2 of the Education Code (Sedgwick Act). When these applications are granted it is necessary for the district to pay that amount which would be expended on the pupil if he were attending in the school district. However, the district does not receive funding of any kind for this pupil since the funding is based entirely upon a.d.a. Thus the applications approved under the Sedgwick Act result in the school district's paying out money which is not received. This can only come from general non-categorical funds.

It appears critical that these data should be presented as often and as effectively as possible to the state so as to improve reimbursement for special education. The counterargument may be that the Master Plan for Special Education will obviate the necessity for changing these funding allowances. However, in its present form it is essentially impossible to do a cost analysis of the master plan since the master plan is not sufficiently in operation so that detail can be developed. The general impression we have at present is that under present parameters there will be little significant improvement in the net funding level.

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Attachments

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ATTACHMENT "A"

COSTS OF SPECIAL EDUCATION PROGRAMS

Program	Percent of Non-Categorical District Contribution	Mean Special Apportionment Funding Per A.D.A. Unit	Necessary Special Apportionment Funding Per A.D.A. Units to Cover Excess Costs
Educationally Handicapped	25%	1,485	2,136
Educable Mentally Retarded	44%	481	1,358
Aphasic	Adequate		
Speech and Hearing	32%	2,157	4,519
Visual (SDC)	Adequate		
Visual (RPD)	53%	2,150	4,534
Orthopedically Handi.(SDC)	42%	1,014	2,209
Pregnant Minors	24%	715	1,170
Homebound	61%	1,795	5,719
Hearing (SDC)	15%	2,619	3,210
Deaf-Blind (SDC)	34%	2,675	4,383
Trainable Mentally Retarded	37%	928	1,831
Transportation of Handicapped	42%	389	673

COPY

SAN DIEGO UNIFIED SCHOOL DISTRICT
Finance Department

SPECIAL EDUCATION COST ANALYSIS
FUND AF ESTIMATED 1974-75 - ADOPTED BUDGET

Fund AF - Educable Mentally Retarded

Total Appropriations Fund AF	893 797
Other Direct Costs *	175 628
Total Direct Costs	1 069 425
Less: Direct Costs of General Education	(346 932)
NET Special Costs	722 493
Less: Special Apportionment	(256 008)
NET Direct Contribution from Non Categorical Funds	466 485
Program ADA **	532.16
Cost Per ADA	876.59

* **Fund AA** Student Services Division Support

Program	Description	Costs
5051	Central Direction, Supv. of Instr.	48 359
6424	Counseling Services	40 972
6504	Guidance Services	82 665
7001	General Administration	3 632
	Total	175 628

** 7-12 in six period equivalents.

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ATTACHMENT "B"

SAN DIEGO UNIFIED SCHOOL DISTRICT
Finance Department

SPECIAL EDUCATION COSTS ANALYSIS
FUND AD ESTIMATED 1974-75 - ADOPTED BUDGET

FUND AD - Educationally Handicapped

Total Appropriations Fund AD	3 044 798
Other Direct Costs *	464 009
Total Direct Costs	3 508 807
Less: Direct Costs of General Education	(685 642)
NET Special Costs	2 823 165
Less: Special Apportionment	(1 962 606)
NET Direct contribution from Non Categorical Funds	860 559
Program ADA **	1 321.64
Cost Per ADA	651.13

* Fund AA Student Services Division Support

Program	Description	Costs
5051	Central Direction & Supv. of Instr.	52 210
6424	Counseling Services	275 499
6504	Guidance Services	130 564
7001	General Administration	5 736
	Total	464 009

** 7-12 ADA in six period equivalents.

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SAN DIEGO UNIFIED SCHOOL DISTRICT
Finance Department

FUND AC ESTIMATED 1974-75 (ADOPTED BUDGET)

	PH Aphasic (SDC)	PH Speech/Hearing (RPO)	PH Visual (SDC)	PH Visual (RPO)	PH Orthopedic (SDC)	PH Pregnant Minors (SDC)
otal Fund AC Expenditures						
Total Appropriations Fund AC	105 646	633 409	37 407	115 919	495 362	37 350
Other Direct Costs *	5 350	20 330	6 420	4 280	25 679	3 209
Total Direct Costs	110 996	653 739	43 827	120 199	521 041	40 559
Less Direct Costs of Gen. Ed.	(21 948)	-0-	(25 637)	-0-	(116 812)	(16 020)
Net Special Costs	89 048	653 739	18 190	120 199	404 229	24 539
Less Special Apportionment	(104 400)	(312 000)	(42 216)	(57 008)	(185 470)	(15 000)
Net Direct Contribution from Non-Categorical Funds	(15 352)	341 739	(24 026)	63 191	218 759	9 539
rogram ADA **	37.57	144.67	42.83	26.51	182.97	20.98
ost Per ADA	(408.62)	2 362.20	(560.96)	2 383.67	1 195.60	454.67

* FUND AA Student Services Division Support Program Description	COSTS					
5051 Cent. Direction Superv. on Instr.	3 869	14 701	4 643	3 095	18 570	2 321
6424 Counseling Services	231	878	277	185	1 109	139
6504 Guidance Services	1 197	4 551	1 437	958	5 748	718
7001 General Administration	53	200	63	42	252	31
Total	5 350	20 330	6 420	4 280	25 679	3 209

** 7-12 in six period equivalents

	PH Homebound (Ind.Inst)	PH Rem. P.E.	PH Hearing (SDC)	PH Multi Incl Deaf-Blind(SDC)	PH Blind Allowance	Total
otal Fund AG Expenditures (cont'd)						
Total Appropriations Fund AG	236 779	76 688	577 827	109 739	48 230	2 474 356
Other Direct Costs *	5 351	10 699	22 471	3 210	-0-	106 999
Total Direct Costs	242 130	87 387	600 298	112 949	48 230	2 581 355
Less Direct Costs of Gen. Ed.	(26 770)	(54 490)	(96 754)	(13 284)	-0-	(371 715)
Net Special Costs	215 360	32 897	503 544	99 665	48 230	2 209 640
Less Special Apportionment	(67 600)	(87 575)	(410 849)	(60 840)	(48 230)	(1 391 188)
Net Direct Contribution from Non-Categorical Funds	147 760	(54 678)	92 695	38 825	-0-	818 452
rogram ADA **	37.66	75.33	156.88	22.74		748.14
ost Per ADA	3 923.53	(725.85)	590.87	1 707.34		1 093.98

FUND AA Student Services Division Support
Program Description

		COSTS					
5051	Central Direction Superv. on Instr.	3 869	7 737	16 249	2 321	-0-	77 375
6424	Counseling Services	1 231	462	971	139	-0-	4 622
6504	Guidance Services	1 198	2 395	5 030	718	-0-	23 950
7001	Gen. Administration	53	105	221	32	-0-	1 052
	Total	5 351	10 699	22 471	3 210	-0-	106 999

* 7-12 in six period equivalents

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SAN DIEGO UNIFIED SCHOOL DISTRICT
Finance Department

SPECIAL EDUCATION COST ANALYSIS
FUND AH ESTIMATED 1974-75 - ADOPTED BUDGET

Fund AH - Trainable Mentally Retarded

Total Appropriations Fund AH	964 343
Other Direct Costs *	12 242
Total Direct Costs	976 585
Less: Direct Costs of General Education	(236 194)
NET Special Costs	740 391
Less: Special Apportionment	(375 360)
NET Direct Contribution from Non Categorical Funds	365 031
Program ADA	404.31
Costs per ADA	902.85

* Fund AA Student Services Division Support

Program	Description	Costs
5051	Central Direction, Supv. of Instr.	-0-
6424	Counseling Services	12 242
6504	Guidance Services	-0-
7001	General Administration	-0-
	Total	12 242

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SAN DIEGO UNIFIED SCHOOL DISTRICT
Finance Department

SPECIAL EDUCATION COST ANALYSIS
FUND AJ ESTIMATED 1974-75 - ADOPTED BUDGET

Fund AJ - Transportation of Handicapped

Total Appropriation Fund AJ	557 704
Other Direct Costs	-0-
Total Direct Costs	557 704
Less: Direct Costs of General Education	(-0-)
NET Special Costs	557 704
Less: Special Apportionment	(322 481)
NET Direct Contribution from Non-Categorical Funds	235 223
Program ADA	829
Costs per ADA	283.74

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9-24-74

Mrs. Forsythe. Thank you Mr. Steinhilber, and thank you Mr. Resnick.

[Whereupon, at 12:25 p.m., the subcommittee recessed, to reconvene at 9:30 a.m., Tuesday, April 15, 1975.]

EDUCATION FOR ALL HANDICAPPED CHILDREN, 1975

TUESDAY, APRIL 15, 1975

U.S. SENATE,
SUBCOMMITTEE ON THE HANDICAPPED
OF THE COMMITTEE ON LABOR AND PUBLIC WELFARE
Washington, D.C.

The committee met, pursuant to notice, in room 6226, Dirksen Office Building, at 9:40 a.m., Senator Jennings Randolph (chairman of the subcommittee) presiding.

Present: Senators Randolph, Williams, and Stafford.

Senator RANDOLPH. A pleasant morning to all of our witnesses and guests.

We are pleased that Senator Harrison Williams, Chairman of the Committee on Labor and Public Welfare, is with us today. We appreciate the adjustment in his schedule so that he could be with us at this day's important hearing.

The ranking minority member of this Subcommittee on the Handicapped, Robert Stafford of Vermont, is here, and we are sorry that his schedule kept him from being present at the two prior hearings. However, I know that he has followed these hearings and has been kept fully informed by staff members of what we have been doing.

Today we open the third day of hearings on three bills S. 6, S. 1256, and S. 1264—Education for Handicapped Children. The bills before us support the commitment to handicapped children by increasing the level of financial assistance to the States.

Last week this subcommittee took testimony and statements from 20 witnesses. All of the presentations had a common theme. Although educational services to handicapped children have improved since the early 1960's and the number of children being served has increased, and while the Federal efforts under Education of the Handicapped Act increased from $25 million in 1964 to approximately $200 million this year—there are still 3.9 million children waiting for the fundamental equal educational opportunity on which our Nation is based. These hearings are designed to explore the ways in which Congress can continue to improve the educational services to handicapped children.

We are preparing to bring from the subcommittee a bill which will hopefully be approved by the full committee under the leadership of Chairman Williams. We are holding this hearing today with witnesses who will further contribute to our understanding of the problems.

Our first witness today will be from a coalition of citizens. Then there will be others who will follow, expressing the concerns of the States and of teacher groups. Today's hearing will complete the actual set of hearings, but prior to our having the privilege of hearing from these persons and their colleagues in the organizations they represent, I call on Senator Williams for what remarks, you feel, Senator, you would want to make as we come to the final day of these hearings.

Senator WILLIAMS. I would appreciate, Mr. Chairman, an opportunity to make a few observations this last day of hearings on these bills. I regret that other committee actions made it impossible for me to be at the full hearings the other 2 days, Mr. Chairman, but I have been advised by staff of all that developed at those hearings.

This morning, while it is the third of the hearing dates for the bills before us, it is the 13th day of hearings in the last 2 years on the subject of education of handicapped children. With your leadership, and that of many members of the subcommittee, we have explored in depth the workings of the Education of the Handicapped Act and the operation of various State programs to provide the right to education for handicapped children. This has been a remarkable journey—one in which the subcommittee learned much and in which we have shared the joys and frustrations of hundreds of witnesses who have dedicated their lives to finding answers to the many challenges in this area.

Last week, Mr. Chairman, the hearings were most fruitful, bringing before the subcommittee the concerns of many people who are deeply concerned about this problem. And we heard their suggestions to us with respect to changes we may wish to make in the legislation.

If I may summarize briefly, I would say we are faced with two major issues: First, the question of compliance and enforcement of the right to education of all handicapped children in this Nation and the development of a suitable mechanism to address this problem.

Secondly, the question of the funding mechanism which will be utilized to distribute Federal funds.

I know, Mr. Chairman, that witnesses here this morning will address themselves to the first major issue: that of compliance and enforcement. I believe that with some modifications, the legislation which we have introduced, S. 6, addresses that issue directly and concisely. These provisions of the bill reflect much of the work of this subcommittee over the last 2 years and represent the major strides which have been taken in this Nation both in attitude and direction. From my vantage point, Mr. Chairman, these provisions only serve to implement the law of the land—the law which proclaims that all citizens have a right to equal protection of the laws. And it is the Congress' duty to enforce this law.

Until every child in this Nation is afforded the opportunity for a decent education, I believe that we will have failed to uphold our duties under the Constitution to assure that the law is enforced.

As for the second issue, the hearings have provided us input and suggestions as to the appropriate funding formula that should be adopted. I believe that this input will be useful to us in the days to come.

I believe we must find a formula which provides an incentive to the States to extend their educational services to all children and that the Federal Government has a right to know that the funds are targeted accurately and faithfully for the benefit of handicapped children who do not now have a free appropriate public education.

As Brutus said in Julius Caesar: "There is a tide in the affairs of men, which, taken at the flood, leads on to fortune; all the voyage of their life is bound in shallows and in miseries . . ."

For handicapped children that tide is running now.

We have heard throughout these hearings a plea from administrators, educators, parents, and handicapped individuals alike. It has been a plea for bold Federal leadership and support for us in the Congress to adopt a comprehensive program to ensure the right of each and every handicapped child to an appropriate free education. We cannot compromise in reaching this goal.

I appreciate the opportunity to make this statement, to be here, and I applaud your leadership, Senator Randolph, and I am grateful too that the schedule is different today, and that I can be here throughout the entire day.

Senator RANDOLPH. Thank you very much, Senator Williams. You have talked about the schedule being a little different today; the Rules Committee is meeting this afternoon rather than this morning.

[Discussion off the record.]

Senator RANDOLPH. Thank you, Mr. Chairman, for the excellence of your statement.

Senator Stafford.

Senator STAFFORD. Mr. Chairman, I would just like to say that for the last 3 years I think I have had the privilege of serving on this subcommittee with you, and it has been a real privilege to work with you, and under the leadership also of Chairman Williams of the full committee, on what I consider to be one of the most rewarding subcommittees in the Congress so far as our work is concerned.

I join with the statement that you have made, that the chairman of the full committee has made. I shall not make one of my own.

I would like the record to show that the two earlier meetings I have missed are probably the only two meetings of this subcommittee that I have missed since I became its ranking minority member.

The reason I missed them was that I was a delegate for the United States to a meeting of International Parliamentarians in what used to be called Ceylon, in the southeastern tip of India, quite a ways from here.

Senator RANDOLPH. Thank you, Senator Stafford. We are conscious of your continued commitment.

Mr. Pimentel, would you come to the witness table? I believe there are three persons who will accompany you.

STATEMENT OF ALBERT T. PIMENTEL, PRESIDENT, AMERICAN COALITION OF CITIZENS WITH DISABILITIES, INC., ACCOMPANIED BY FREDERICK C. SCHREIBER, EXECUTIVE SECRETARY O THE NATIONAL ASSOCIATION OF THE DEAF; MRS. JANIECE PETERSON, TEACHER OF THE BLIND; AND FRED FAY, PH.D., REHABILITATION PSYCHOLOGIST

Mr. PIMENTEL. We are ready to proceed. Mr. Chairman.

I would like to introduce the other panel members. To my left is Frederick Schreiber, executive secretary of the National Association of the Deaf.

To my immediate right is Mrs. Janiece Peterson, a teacher of the blind; and Dr. Fred Fay, who is a rehabilitation psychologist.

All four of us, Mr. Chairman, are members of the American Coalition of Citizens With Disabilities. We are all handicapped people. I am totally deaf, Mr. Schreiber is totally deaf, Mrs. Peterson is blind, and Dr. Fay is a paraplegic.

We are in a very real sense, Mr. Chairman, representative of those who have come through the education system in America as special education students. We think we represent a very unique point of view.

You have heard from parents, you have heard from professionals. This morning, Mr. Chairman, we would like to present the point of view of consumers who have been through the mill of special education.

Would you like me to proceed with my statement?

Senator RANDOLPH. If you care to have your statement printed as a part of the record, you may submit it, and just discuss points in your statement. If you desire to give the statement in full, that will also be agreeable.

Mr. PIMENTEL. It is quite brief. I think I can read it for the record.

My name is Albert T. Pimentel. I represent the American Coalition of Citizens With Disabilities, which I serve as president. This coalition is made up of the major organizations serving specific disability groups. The coalition represents 50,000 disabled citizens in the United States.

We are here because disabled citizens are very much interested in improved education for all handicapped children. All of our members are products of the education system in America. Most of us went through all or part of our education as students with disabilities.

We know from personal experience where the physical, psychosocial, and economic obstacles lie as one attempts to maneuver through an education system usually not designed with handicapping conditions in mind. We not only are interested in using our personal knowledge for the benefit of present and future children who are handicapped in some way, we are directly interested in these handicapped children as fellow citizens who face the same daily problems that confront many of us with various disabilities.

Mr. Chairman, Senate bill 6, for the first time in the history of our Nation spells out a guarantee that is inherent in our Constitution. While progress has been made in the education of handicapped children in the last decade, as a Nation we have been moving all too slowly. Handicapped children and their families represent only a small constituency in any local school district. Their plight is all too frequently lost in a myriad of other issues, and in the constant competition for the educational dollar on the local and State level.

Over a 10-year period, one sees a pattern of only piecemeal improvements in special education on local and State levels, often accomplished to stave off pressure instead of deliberately planned as a high priority program geared toward quality education for all handicapped children.

Mr. Chairman, while we have seen legislative progress in the States in the last 2 years in response to the Education Amendments of 1974, Public Law 93-380, we remain deeply concerned about the 45 percent of handicapped children of school age who are reported by the Bureau of Education for the Handicapped as not being in any school program.

This dismal omission by our Nation will compound the handicapped effects of the disabilities of these neglected children to the point that their lives as adults will be largely useless and an unnecesary burden on their families and on the Nation's welfare system.

Senate bill 6 guarantees a remedy to these problems. It correctly mandates the State education agencies to assume responsibility for all handicapped children and to program an appropriate education for each child.

Some people will be concerned that mandating State accountability would increase the possibility of assigning handicapped labels to children. This is a false issue.

The focus needs to remain on the educational needs of children. No child is more handicapped than one who is not in school at all or is not in a program adequate to his or her educational needs. Confidentiality of records can be maintained.

A second possible concern of some would be the cost of this proposed legislation. The coalition submits that its apparent costliness more properly should be perceived as a sizable past neglect of equal inclusion and protection under the law.

With 45 percent of handicapped students of school age not in any educational program at all we have a condition of great neglect; its remedy lies in comprehensive mandatory educational legislation at an appropriate level of financial support to bring about parity in educational opportunity with all other children. In a democracy under our Constitution we should not provide for less. This is a sound program that makes humanistic and economic sense.

Particularly important in this bill, Mr. Chairman, is the affirmative action provisions spelling out inclusion of disabled citizens in educational planning for handicapped children. Disabled adult citizens can add an important personal dimension that will assure quality education programing.

There are certain existing conditions and programs in some States that already form a solid base upon which local education programs can build. I refer specifically to the excellent residential school programs for the deaf and for the blind.

Many States maintain within the State education agency special education residential school programs that compare favorably in school facilities and comprehensive special trained educational staff support with exclusive private secondary boarding schools.

These high quality existing residential programs usually provide for integration of their handicapped student population with nonhandicapped children through athletics, joint vocational education, and in recreational programs such as scouting and joint high school projects.

All of these quality programs provide for weekend home-going, and have good parent education involvement. Senate bill 6 should not be misconstrued by the Bureau of Education for the Handicapped or by State education agencies as intended to exclude the very real potential and role that these existing residential programs can play in assisting local education agencies in developing additional capabilities to provide quality special education for children not being served at all, or not being served adequately.

Disabled adult citizens must be included to assure that regulations to be developed for implementation of this new public law will fully live up to both the spirit and letter of Senate bill 6.

It has been a pleasure for the Coalition of Citizens with Disabilities to testify in support of this proposed legislation. We look forward to a new day and just guarantees for all handicapped American children.

Thank you.

Senator RANDOLPH. Thank you very much, Mr. Pimentel, for your statement. It is, in my opinion, factual, and it also presents a further challenge to the Congress, especially to those of us on this subcommittee, to move forward with the realization that the funding of such a program for a more adequate education for handicapped children is of the utmost importance.

In other words, we must now make an effort to catch up with what we failed to do earlier. Is that your belief?

Mr. PIMENTEL. Yes, very definitely, Mr. Chairman.

Senator RANDOLPH. Thank you. I want to give to Chairman Williams and Senator Stafford the opportunity to comment or to question the witnesses. It might be helpful if your colleagues, Mr. Pimentel, could give to the subcommittee their viewpoints from the standpoint of the types of handicapped people or children with whom they have worked and are most familiar with.

Mr. PIMENTEL. I think perhaps we can start with Dr. Fay.

Dr. Fay, would you like to add any additional comment?

Dr. FAY. I would be perfectly willing to answer any questions. I am concerned about the effect of keeping children out of schools. That statistic of 45 percent is really frightening when you think about the impact on the children's lives, of not getting an education, the lifetime impact of that.

I am also concerned about the effects of some special schools on children where they do not get a chance to develop normally in more than just school work, their social skills with other able-bodied-children.

If I might expand on that briefly, I personally broke my neck in my junior year of high school, and I had been a C average student in high school. When I went back for my senior year, I was actually with home tutors, and I found that suddenly I was getting straight A's.

I think what it amounted to in retrospect is that the teachers simply solicited me because of my disability.

When I was in college there were other students at the University of Illinois, 125 disabled students, well integrated into a program of 30,000 able-bodied students, and each student was treated as an equal, and I had to work there to get the grades.

I also noted that many valedictorians of special schools flunking out their first semester simply because they had not gotten a decent education with the program they had been in.

So I suppose I am very concerned that whatever is done is done with the individual in mind, that to the extent possible the students be integrated with other able-bodied students so they get the maximum benefit of their education.

Senator RANDOLPH. Dr. Fay, what are you doing?

Dr. FAY. I am a Ph. D. in rehabilitation psychology. I am working on a research project on the needs of the severely handicapped, as a matter of fact.

Senator RANDOLPH. Where is this work being done?

Dr. FAY. At the Urban Institute.

Senator RANDOLPH. Thank you very much. Mrs. Janiece Peterson, we would like to hear from you at this time.

Mrs. PETERSON. I am a teacher in the District of Columbia public schools. I teach blind children who also have learning disabilities.

Our goal in the District is integration of children into the mainstream, and this policy is working to a degree. I would say it is working to the degree that people higher up in the power structure are committed to mainstreaming children with disabilities.

I am very concerned with the early beginnings of education for handicapped children. Where parents have limited information about ways in which a child can develop other abilities when he has a disability, keeping the child away from the professional instruction is in fact limiting his eventual capabilities, and his potential goes down. The longer he is away from proper education, which minimizes the disability that he has.

Early education is of primary concern to me. We have children coming into our schools now, say up to the age of 9, who have never been in school before, obviously profiting from the school situation, but obviously limited, obviously having negative habits already well established, that could have been corrected with early instruction.

Senator RANDOLPH. Thank you very much, Mrs. Peterson. How many children, blind or partially blind, are there in the public school system of the District of Columbia?

Mrs. PETERSON. I believe it is upward of 50. Some of them are in itinerant programs, which is just in the mainstream with visiting teachers once or twice a week. Some are in resource schools where a teacher is at hand in the school setting constantly, but with the child in the main function in the regular classroom, and a limited few are in a special school, which is where I teach, where their problems are considered to be severe enough to prevent mainstreaming at this time.

However, these children do not stay indefinitely. They have come to our program, and their capabilities are developed, we hope, to where they go to another setting where they continue their education with able bodied compatriot students.

Senator RANDOLPH. Do you have an estimate of the number of children who could be given training in the District of Columbia school system beyond the number given who are now receiving assistance?

Mrs. PETERSON. Based on the number of deaf and blind children who have been found through very concentrated efforts in the last several years, I would estimate that certainly there are blind children not in school, particularly from minority groups.

It seems that we have too few to actually be serving all of them that could be served, but as far as statistics, numbers, I could not give you any.

Senator RANDOLPH. Thank you very much, Mrs. Peterson.

Mr. Schreiber.

Mr. Schreiber. Mr. Chairman, I have a very brief statement that I would like to submit for the record, and then I would comment further on what Mr. Pimentel has said.

In particular, I would like to note that in Mr. Pimentel's testimony he has neglected to mention children covered by this bill who are not in school, the preschool age children, children from age 0 to 5, who are of particular concern in rehabilitation of the deaf.

For the past 10 years we have been making progress toward providing this kind of education, since we have found that with our preschool program deaf children are actually educable, and they can communicate with anybody.

I am a product of special education. My special education program started at the age of 7, for being physically disabled, and not being deaf. For 3 or 4 years I was in school for crippled children.

Our concern is basically with inappropriate placement of children. I spent 3 years in a program for crippled children, where no consideration was given to my primary disability, that of being deaf.

We are strongly in favor of the compliance aspect of the legislation. For 200 years this country has existed, and educational systems have been in existence. For over 10 years we have known that the need for this kind of legislation was essential to the development of the deaf child, but actually very little has been done to provide preschool programs for deaf children.

The 1975 Act for Children Compliance will help exceedingly. We urge sincerely that no further delay be permitted.

The children will carry these scars for the rest of their lives if they are not in school, and not allowed to function as normal citizens.

Senator Randolph. Thank you, Mr. Schreiber.

Senator Williams.

Senator Williams. Thank you, Mr. Chairman. I appreciate this opportunity to address a question to each of our witnesses who made such a contribution to our understanding of the problems that we face regarding what is needed in education for the handicapped.

Mr. Pimentel, several witnesses have testified that the provision in S. 6 requiring all children to be in school in 2 years was too short a time period, and that States would not be able to meet this timetable.

Do you have any judgment on that time factor, and would you comment?

Mr. Pimentel. Yes, sir; I do, Senator Williams.

First of all, this is not an initial legislative effort in behalf of special education. There have been Federal education legislation programs for special education since 1964, especially the 1974 amendments, which have already put in place in States the mechanisms to enable States to move forward.

I believe that States can move forward, and can comply with the 1978 provision in this proposed legislation.

Moreover, Senator Williams, I would like to point out that the public school systems today are finding vacancies in their elementary schools as the birth rate in this Nation declines. We are finding school buildings vacant, and we are finding an oversupply of public school teachers in this Nation.

Why cannot these vacant buildings, and some of this oversupply of public school teachers be committed in behalf of children who are staying home waiting for a place in the American public school system?

We have the physical room and we have an oversupply of public school teachers in this Nation. It is more a matter of proper administration by State educational agencies and their special education divisions and a commitment on their part to place a high priority in this activity.

If they place this effort on a high priority basis, they should be able to meet the 1978 provision with no effort whatsoever.

It is a question, I think, of evasiveness on the part of the State educational agencies.

Senator WILLIAMS. I appreciate your observations on the supply of teachers that would be available if there should be an increased opportunity, and I know personally that there are teachers who have special training for teaching those who have disabilities, who have even come to me to see if I can help them find a position in school systems.

In the State of New Jersey, in a very limited way, I have made these observations, and I certainly agree with your broader conclusion.

You mentioned the concern some have expressed over labeling of children, and you said in your statement this is a false issue. The labeling question comes up in the formula in S. 6 in its focus on aid of handicapped children, and some say this will encourage States to inappropriately label handicapped children.

Could we have your wise observations on this concern?

Mr. PIMENTEL. Senator Williams, many parents and many individuals in our current national effort to protect the privacy of people are concerned that children will be branded as mentally retarded, or as having learning disabilities, and that such a label will stay with them through life, and cause them a lot of difficulty in their lifetimes.

There is our great effort in this Nation to try to minimize labeling of children, branding of children, and to assure confidentiality of records.

I recognize that there is some validity to this concern, but I think the overriding concern is to provide a basic education for all children.

I think that any family who has a child not in school would be much, much happier to have a child correctly diagnosed and, if necessary, a label applied, if that is what it takes to provide that child with a basic education.

If you talk to the families of these children who are not in school, who are not able to achieve an appropriate education by placement in the school system, you find that they are not concerned with the diagnosis of their child; they are concerned with assuring an education for their child.

I think it is professionals who are so concerned about confidentiality, I think unnecessarily and it sometimes serves to deny appropriate education to these children. It is inconceivable to me that this issue could ever be weighed against the concept of providing a proper education for handicapped children.

I think that we have had enough concern in our American society in the last few years about honesty in Government, and proper protection of citizens and their rights, that we can anticipate that States will establish programs that will maintain confidentiality of records of these children. States can provde for the education of these children, and should not be so concerned about the labeling factor.

It is an issue, but it is a very minor issue in comparison to children who are not receiving an education.

Senator **Williams**. That is a full, clear, and most helpful statement on that very troublesome question.

I wonder if I could move to Mrs. Peterson, and ask Mrs. Peterson about another concern that has been raised, and that is the concern that the individualized and written program that teachers would have to respond to under the legislation would be too burdensome, it would create a great deal of paperwork, and therefore there is some reservation about the individualized written program on this score.

Do you think that the individualized written program has merit, and should prevail within our legislation, Mrs. Peterson?

Mrs. **Peterson**. The individualized program does take time. There is more to be written down. However, it is very beneficial to the student, and also to the parent who sees the goals of the educator, and in many schools this is now being done on a month-to-month basis.

In my school I have a responsibility to write the objectives of each child by the month. We are now having parent input at this time.

If this sort of plan will be recognized as teachers are being trained, that certainly would not cause any other difficulty which may arise only temporarily.

Senator **Williams**. It might be a temporary adjustment to it, but it would be temporary, and after that the benefit would far outweigh the burden?

Mrs. **Peterson**. Yes; that is my feeling, because we are used to writing. A teacher starts out being used to writing a lesson plan which covers a classroom full of children, and as we recognize individual differences, and as we look to the true definition of objectives of what the child learns in a given time period, we begin to do this, then it becomes a matter of writing it down.

I believe temporarily teachers will not be used to this, but in the long run it helps the teacher, because if the objectives are achieved, there are evaluation tools.

We see the score, the test that shows what the child can do, you put a date beside it, and you move on, and it is very easy to chart the progress of a child.

Senator **Williams**. I see Dr. Fay is nodding his head in agreement.

Dr. **Fay**. I could not agree more.

If I might, far too frequently the child with a disability is seen as a paraplegic, or a blind person, or a retarded person, rather than as an individual.

I think that requirement, that accountability, that you are putting in the bill with the individualized student plan will assure that each child is seen as an individual.

It is just one more guarantee. In fact, I am really pleased with the way that S. 6 is written. There are several features in it I might expand on that I think you really deserve to be commended on.

The need to make schools barrier free is obviously essential. If you are a handicapped child, and you cannot get in the school, you are not going to get an equal education.

The need for requiring an affirmative action program, so that the disabled teachers will be in the schools, so that not only handicapped students, but able bodied students will see reasonable role models, and also able bodied teachers will see disabled teachers, and some of their negative attitudes will be broken down.

I think the affirmative action program in the schools can be a tremendous help, and have tremendous impact.

The idea of not rewarding States with Federal dollars when they flunk the law of the land, while I am sure a number of the States do not like it, is an essentially good example of the kind of accountability we need to ~~make~~ sure that disabled children do get the education they deserve.

Getting back to individual written planning, I think basically you are talking about due process for the child and the parent. And without that kind of plan I am just really concerned that another two or three or four generations of disabled students will be lost the same way many have been lost already.

Senator **Williams**. Thank you very much, Dr. Fay.

I was somewhat concerned, Mrs. Peterson, that in response to the number of blind children in the District who are not receiving education, not with your inability to give us a number, but I just was concerned with whether anybody knows what the blind population of youngsters is who are not being educated in the District of Columbia.

Mrs. **Peterson**. I would submit that is probably correct. Just as an example, however, I have given the number of Spanish people in our city. We have only had one blind child in the schoolchildren recognized as such.

I find that that suggests to me there are some children we have not identified.

I have heard of four children who may be placed in our program in the coming months, or at least by the beginning of the next school year, but those are all the statistics I know.

Senator **Randolph**. Senator Williams, I recall that Senator Stafford was very instrumental, certainly a leader, in an amendment where language was developed to give a priority to underserved handicapped children. Is that correct?

Senator **Stafford**. Yes, that is correct, Mr. Chairman.

Senator **Randolph**. So it is, as Senator Williams has indicated, necessary to give priority to a search, Mr. Chairman, for those blind children who can hopefully be helped.

Senator **Williams**. Yes, and now, Mr. Schreiber has indicated that there is another failure, and that is reaching the 0- to 5-year population.

If we are having gaps of information on those who are not being served from age 5 up, I suppose that problem is even greater, and we would find it even more difficult to identify the child 0 to 5.

I wonder if Mr. Schreiber could now give us his estimation of the number of young people who are deaf who need to be served, under the highest law, the Constitution.

How many young people are not receiving educational services, from your experience and understanding, Mr. Schreiber?

Mr. **Schreiber**. Senator Williams, we do not even know the actual number of deaf children in the educational system. We know that there may be 40,000 children in cooperating programs for the deaf in the country. We know that there are at least 10,000 more children in programs which are inappropriate to their needs, but we have no real figures on the number of children from 0 to 5 who are not in programs for the deaf in this country.

Senator **Williams**. You think though that the search should be made, and the programs should be there? Is that your conclusion, Doctor?

Mr. **Schreiber**. Yes, sir. We have many programs in various States of this country. A few States have already established these programs. One of the basic criticisms of education for deaf children is their inability to communicate.

Without the assistance of parents, educators, the deaf child is a vegetable until he starts going to school.

Without a provision to provide this education, the deaf child will remain a vegetable until he starts going to school, which gives him a 6-year handicap in even getting an education comparable to the general public.

Senator **Williams**. Mr. Chairman, I have taken a great deal of time, but I feel it is important. This is a most valuable experience for me to have these witnesses. I might make one more observation and question.

Senate 6 does very carefully and completely define State responsibilities. The State is to be under the funding formula for support in this area of education.

Now, there are those who feel that all of these so-called strings attached are too many, and the program could be simplified by just providing money and let the States, in their wisdom, program and do the educational job, without again those "strings."

You people are professionals, you are knowledgeable, you have been through the educational process, and with great success, I might say, with a disability.

Would you comment on the propriety of this kind of specific program activity from the national law to the State departments of education. Are these strings justified?

Mr. **Pimentel**. I would like to comment on that, Senator Williams.

As I mentioned in my statement, in any local school district the number of handicapped children involved as a proportion of the total population is a very small one. There are many, many demands for the educational dollar, and families of children who have handicaps represent only a very small constituency in any local school district, and their pleas have been disregarded in the past.

We have no reason to believe that without appropriate mandated programs in the State that their voices will be heard any better in the future.

In fact, I am saying that it is essential that the proposed legislation exactly spell out that this money is earmarked for special education. State educational agencies have not, when faced with many different demands for their educational dollar, provided adequately for special education in the past, and we have no reason to believe that they will do so if the dollars are given to the States without strings.

Those strings must be there if we are to assure that appropriate special educational programing will follow. We cannot anticipate that it will be done without actually mandating it.

Senator **Williams**. Thank you very much, and thank all of you. Your testimony has been very helpful.

Senator **Randolph**. Thank you, Senator Williams.

Senator Stafford?

Senator Stafford. Thank you, Mr. Chairman.

The various questions I had intended to direct to Mr. Pimentel and the members of his panel have really all been asked in substance by the chairman of the full committee, Senator Williams.

I will simply say I have appreciated the responses of the witnesses. They have been very helpful to us, and I will not ask any questions at this point.

Senator Randolph. Mr. Schreiber has mentioned this 0 to 5 age bracket. I call attention to the earlier law. I do not have the exact year in connection with the elementary and secondary education measures that brought attention to the needs of the handicapped. In Public Law 93-380, which became statute on August 21, 1974, we were carrying out language which had been in Public Law 91-230, which became law on April 13, 1970. I think because Mr. Schreiber has mentioned this earlier age bracket I should read at least a part of the language that we were able to have approved in the amendments to the Elementary and Secondary Education Act of 1965.

"The Commissioner is authorized in section 623 to arrange by contract, grant, or otherwise, with appropriate public and private nonprofit organizations for the development and carrying out by such agencies and organizations of experimental preschool and early education programs for handicapped children which the Commissioner determines show promise of promoting the comprehensive and strengthened approach to special problems of such children."

It further states: "Such programs shall be distributed to the greatest extent possible throughout the Nation, and shall be carried out both in urban and rural areas."

So we were attempting, Mr. Schreiber, on at least three occasions, to try to have that a part of the basic law. Do you have any comment on that language?

Mr. Pimentel. I would like to comment on that, Mr. Chairman.

The 1974 Educational Amendments that you referred to provided for the third time opportunity for preschool children to participate in the educational process.

As you know, sir, it was reported by the Bureau of Education for the Handicapped to the 1975 Congress that only 22 percent of preschool aged children were participating in some kind of educational programs.

That means, Mr. Chairman, that 78 percent of preschool aged children with handicaps are not participating in any education program. As the panelists have pointed out this morning, it is critical to handicapped children that they get an early start in the educational system; yet, 78 percent of the preschool aged children who have handicaps are not now in any public school program.

I think that is an important statistic, and I would hope that additional dollars, that Senate bill 6 provides would make it possible for many of these 78 percent of preschool age children to become involved in some educational program.

Senator Randolph. You are correct, Mr. Pimentel. When we began the hearings last week, I made an opening statement similar to that you have just made. The members of our subcommittee—and I hope the members of the full committee and Congress—appreciate the magnitude of the problem that is before us.

We will move along as quickly as we can. We have a full list of witnesses this morning.

Mr. Schreiber, did you wish to make a comment?

Mr. **Schreiber.** Just briefly. I am aware of the amendment, and as Senator Williams indicated this morning, we are talking about compliance, and Mr. Pimentel has emphasized that without funds we are not going to get the services the children need. That is why we brought it up.

We must have compliance, or the State will not provide the services, at least not in my lifetime.

Senator **Randolph.** Thank you very much, Mr. Schreiber, and this panel. You have all been very helpful, as Senator Williams and Senator Stafford have said, in contributing to our understanding of these problems.

Senator Williams, I do want to refer, however, to one of those earlier programs that has been very successful in your own State, in Newark, with the Monsignor. I am not sure of his name.

Senator **Williams.** Monsignor Hourihan, a great person.

Senator **Randolph.** It has been very successful. So, Mr. Pimentel, Mrs. Peterson, Dr. Fay and Mr. Schreiber, we thank you very, very much.

[The prepared statement of Mr. Schreiber follows:]

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FREDERICK C. SCHREIBER
Executive Secretary

April 15, 1975

My name is Frederick C. Schreiber, I am the Executive Secretary of the National Association of the Deaf, the largest National organization of deaf people in the United States. I am most appreciative of this opportunity to make a very brief statement relative to the bill S.6 under consideration today. Not only have I been privileged to study this bill but I have also been able to read the testimony presented by others and I note that in general we are not always in agreement on the need for this bill and the benefits it offers to all handicapped children.

The two areas of concern which appear to register most are when the compliance provisions of the bill will become effective and the methods by which compliance might be assured. These are the concerns that concern the NAD also. We are particularly dismayed by the target date of 1978 for compliance recognizing reluctantly that it may be impossible to achieve it before then. But in accepting the 1978 date, we wish to note that it menas that many deaf children and their parents will be injured by the inability to find programs open to them and the scars are ones which they will carry for the rest of their lives. Educators of deaf children have recognized for some time now the benefits of early starts for these children and we have been moving steadily but sporadically toward earlier admission programs for at least a decade. Without this legislation our progress will continue to be erratic and disappointingly slow.

We urge that the provision requiring appropriate programs from birth through age 21 be especially retained as an essential requirement for insuring that handicapped children in general and deaf children in particular do indeed receive the appropriate free public education to which they are entitled and toward which the bill is directed. The second point is about what constitutes an "appropriate" education for a handicapped child and how such education can be achieved. For almost 100 years this association has fought with educational authorities on what constitutes an appropriate education for the deaf and we have rarely agreed. In this bill the committee in its wisdom has recognized that there exists differences of opinion as to what constitutes an appropriate education for minorities and has taken steps to insure that we do not repeat the mistakes of the past by providing, in S.6, specific protection stating in Sec. 613 that "procedures to insure that testing and evaluation materials and procedures utilized for the purposes of evaluation and placement of handicapped children will be selected and administered so as not to be racially or culturally discriminatory". As one of those handicapped persons whose education has been largely through special education systems, I would urge that this statement be amended to read "racially, culturally or sensorially discriminatory".

Finally with respect to bills S.1256 and S.1264, we are distressed that they contain no provision for insuring compliance. This is a critical factor - perhaps the critical factor that we feel is absolutely necessary to be included if the handicapped child is to truly have his day in school.

Thank you.

Senator RANDOLPH. Senator Williams, I would like to provide the opportunity for you to present your constituent from New Jersey.

Senator WILLIAMS. It is a great honor.

I am more than pleased. I am very grateful that Commissioner Burke from the State of New Jersey is the witness at this very important hearing.

He has been a State educational leader now for just about an anniversary, is that not correct, Fred?

Mr. BURKE. Just about another month.

Senator WILLIAMS. The Governor was successful in making a plea to the Commissioner of the State of Rhode Island, to have Commissioner Fred Burke come to New Jersey, and help us with some few problems we had, and he has been an inspiring leader in this year of residency in New Jersey, and prior to that dean of the School of Education and as a professor of political science at Syracuse University.

We know we will be greatly helped by your appearance here, and your statement will be of great value to us.

I am honored to be able to introduce you to my colleagues.

Senator RANDOLPH. Mr. Burke, if you will proceed, please.

STATEMENT OF FRED G. BURKE, COMMISSIONER OF EDUCATION, STATE OF NEW JERSEY

Mr. BURKE. I am Fred G. Burke, Commissioner of Education of the State of New Jersey. I thank the subcommittee for this opportunity to present testimony on behalf of the handicapped children.

I also would like to express my appreciation to this subcommittee and its chairman, Senator Randolph, for the careful and sensitive manner in which this important legislation to assist the education of handicapped children has been developed.

I have watched it for some time.

My purposes in coming before you today are to express my strong support for Senate bill 6, and to offer suggestions that I believe will improve administration of the act at the State level.

Public Law 93–380 established the right of every child regardless of handicap to a free, appropriate public education. It represented a pledge to our Nation's 7 million handicapped children and their parents which said in essence: No accident of birth will prevent handicapped children from contributing as fully as they can to the common good of our land. To that end, handicapped children should receive a public education that will enable them to use their human potential to the fullest.

Because I believe in the promise embodied in Public Law 93–380, I am here to support Senate bill 6. If enacted, Senate bill 6 will fulfill the hopes of those of you who helped pass 93–380 and those of us who are involved in the education of handicapped children.

We have a long way to go in making good on that promise. Today, 1 million children across the country who are handicapped receive no special education assistance. In my own State, a State nationally known for its progressive legislation on behalf of children with special needs, 15,000 children lie beyond the reach of our present educational programs. Eleven thousand of these children are of preschool age—that crucial period in human development when so much can be done to undo the disadvantages of birth.

I want the members of this subcommittee to know that the citizens of New Jersey and their State elected representatives are making a significant statewide effort to provide for the educational needs of our handicapped children.

I listened very carefully to the testimony which preceded mine, and I am sure in some States the effort is not what it should be, but I am proud of our record.

In 1975, we in New Jersey will spend almost as much for educational services for our handicapped children—$80 million—as the Members of Congress appropriated last year for all handicapped children in the United States.

The total Federal contribution to our efforts in New Jersey over the past 9 years, some $53 million, is less than the sum we spent on our handicapped children in the year 1973.

New Jersey's fiscal commitment to the needs of our handicapped children has weathered the uncertainties of a State budget crisis brought on by the very problems of school finance and by the depressing effects of a critical 11 percent unemployment rate in our State.

However, Senate bill 6 will provide the financial assistance we need in order to provide quality education for all our handicapped children.

Furthermore, Senate bill 6 establishes national standards safeguarding the educational rights of handicapped children and details a process for achieving an appropriate education for each child that we believe are both necessary and workable.

We believe that this legislation places the responsibility for ensuring that every handicapped child receives comprehensive educational services squarely where it belongs—with the States.

In New Jersey, our constitution says and our courts have held, that we at the State level, both executive and legislative branches, are responsible for seeing that every child in our State receives a thorough and efficient education.

As Commissioner of Education in New Jersey, and as proposed in this bill, the administrator chiefly responsible for insuring that all handicapped children obtain a quality education, I welcome the challenge that this landmark legislation proposes.

I think that many of the bill's provisions are ambitious but sound. When implemented, they will provide a fair and equitable means for meeting the special needs of handicapped children.

Based on our experience in New Jersey—where we have already developed procedures to involve parents in the determination of individualized educational programs for their children, and established regulations to guarantee due process pursuant to Public Law 93–380 and our own State laws—I can attest to their administrative workability.

In my view, the provisions regarding parental involvement and due process will serve as the most effective legislative remedy you could design to protect the rights of handicapped children. Parental involvement will curb abuses such as excessive or mistaken labeling and prevent children from being placed in inappropriate educational programs. Due process procedures developed at the State level will give parents a place to take their grievances for adjudication. We have these processes already in place.

I know that there have been some fears expressed in these hearings that mandating written agreements between local schools and parents and developing more elaborate procedural safeguards will cause many problems for local school districts. We have found no basis in fact for these fears in New Jersey.

Moreover, I would reason that there will be fewer difficulties between parents and their schools when parents have viable channels for their concerns. I will generalize this is not only for the handicapped, but for others, as well.

At present, in most States, parents have no recourse but the courts to obtain quality education for their handicapped children. Senate bill 6 provides a more workable—and clearly more just—system for the resolution of differences between parents and schools.

I applaud the inclusion in the legislation of the requirement that children receive educational services in the least restrictive environment. In New Jersey we believe strongly in this concept. Last year, 81,000 of the 135,000 handicapped children served were enrolled in mainstream type programs in our schools.

I also feel that it is important that the proposed legislation retain sections designed to prevent the classification of children in a culturally or racially restrictive manner.

At this point, Mr. Chairman, I would like to place in the record for your study, copies of New Jersey's present and proposed rules and regulations pertaining to handicapped children. They outline the process we have developed for implementing parental involvement, due process procedures, and mainstreaming in the operation of our special education programs.

[The information referred to may be found in the appendix on p. 449.]

Mr. **Burke.** The task of securing a quality education for all handicapped children in our country requires strong, comprehensive legislation like Senate bill 6.

It will also take the development of good State plans that will:

1. Set priorities to ensure that those children presently outside our educational system receive the services they deserve first. I think this is terribly important.

2. Coordinate and monitor the delivery of educational services in other State agency programs or State-funded institutions.

3. Assist local districts in allocating their funds in the most cost-effective way and in a manner best suited to meeting the needs of all handicapped children in the State.

4. Ensure compliance of local districts in the development of individualized educational programs for children that are consistent with the features of the proposed Federal legislation and State planning.

Mr. Chairman, I believe that our State educational agencies are able to do the job outlined for them in Senate bill 6. With the support of the Federal Government these past 10 years, we have built the mechanism for planning, program development and oversight necessary to make a comprehensive bill like this one work.

I have three suggestions which I believe will strengthen the bill. The first concerns funding. Both the mechanism proposed under Senate bill 6 and that offered by Senator Mathias of Maryland have merits. And frankly, both have disadvantages.

The Mathias amendment, in my view, conceivably might discriminate against States with smaller student populations, thus tending to favor my own and other large States at the expense of others. It also provides no incentive for States to develop programs that extend to include all students who need special services since money is provided without regard to the number of handicapped students served.

Senate bill 6, on the other hand, takes into account maybe too many variables. I do not believe that the formula proposed is workable because there is no way at present to obtain comparable data from each State on local per pupil expenditures, State support, and the actual excess costs of the delivery of special services to handicapped children.

Having served as a State commissioner in more than one State, I have had an opportunity to discuss this with my colleagues, and I think some States are maybe better able to draft this than others, but I do not think we are all at that level as yet.

I would like to see this subcommittee devise a funding solution that would combine the best elements of both proposals. I would suggest a formula that incorporates a simple, flat sum for every child actually served by special services within each State.

Second, I would like to suggest that this subcommittee consider revising the section pertaining to the formation of State advisory councils in order to make the provision more flexible and compatible with present State operations. As presently written, Senate bill 6 requires the Governor of each State to appoint a planning and advisory panel to be responsible for overall policies related to the education of the handicapped in each State.

In effect, the bill will remove this structure from the Department of Education which in our State, like many others, is empowered through the State constitution to make policy decisions in education for all children through its State board of education and through its commissioner.

The establishment of a separate board for policy on the education of handicapped children would present me as commissioner with two sets of countervailing forces—one stemming from the proposed policy advisory board under Senate bill 6 and the other from the State-empowered board of education.

At present, I have an advisory committee on special education composed of representatives as required in Senate bill 6. This advisory committee meets the requirements as established by law and rules and regulations in New Jersey, and speaks on issues in special education directly to the Commissioner of Education.

I believe that you should prepare the legislation in order that States can adapt this provision to fit their present governance structures, which vary so much, as you know.

Finally, though I agree with the bill's provision of special services for all children from birth to 21 years of age, I would suggest that language be inserted in the bill that places a priority of training parents instead of providing direct services to handicapped children during the first three years of their lives.

We find that measures for identification and classification are too imprecise to be effective during the early years.

I want to be sure I am not misunderstood. I strongly support the early childhood approach. We now have this program in more than 30 districts in New Jersey for the early handicapped.

With the exception of providing specific programs for deaf and blind, parental training is the most effective tool in ameliorating problems stemming from a child's handicaps.

The suggestions I have made may help you in developing the final versions of Senate bill 6.

But I want you to know that my first priority for Senate bill 6 is that it be passed—and in this session of Congress. We need it to fulfill our promise to the handicapped children of America. We can do no less.

Thank you.

Senator RANDOLPH. Thank you, Mr. Burke, for the points that you have brought to the attention of the subcommittee membership.

Senator Williams.

Senator WILLIAMS. Thank you very much, Mr. Chairman.

I knew it would be most helpful, and your statement indeed was, Commissioner Burke.

I wonder if I could have you just amplify one or two areas that you have mentioned.

First, let us deal with the formula question.

Let me back up and ask you to give just a little view of how the Federal moneys in this area are now received and distributed in the State under the Mathias amendment of last year.

Mr. BURKE. My understanding is that the funds are received essentially on the number of children.

Senator WILLIAMS. Who is the recipient?

Mr. BURKE. The State.

Senator WILLIAMS. Is that your department? Is it directed to the State Department of Education?

Mr. BURKE. Yes, and funds are allocated on programs which are developed essentially by local education agencies, or an aggregate of local educational agencies.

In some cases we have three or four counties in New Jersey which have set up countywide services for special education.

Senator WILLIAMS. How is the money distributed? Under what breakdown to the community?

Mr. BURKE. Essentially upon the application of local educational agencies to support programs, and the total adequacy of the funds that are available.

Senator WILLIAMS. I thought there was some suggestion here that school population had some kind of factor.

Mr. BURKE. I am suggesting I think what will be preferable——

Senator WILLIAMS. No. What is now? On what basis does New Jersey get its distribution of money for the handicapped?

Mr. BURKE. It receives the money on the basis of its total school population.

Senator WILLIAMS. That goes at the State level to you?

Mr. BURKE. Yes.

Senator WILLIAMS. And your distribution is to the community total population?

Mr. BURKE. No. Those funds are distributed on the basis of need, because in some of our districts the need is greater than in others.

Senator WILLIAMS. How is that changed under the proposed legislation before us?

Mr. **Burke**. My understanding of the amendment is that the funds are made available to the State, and they should be distributed approximately on the basis of need, and this is the way we have been distributing them.

Actually, the funds that we distribute for the handicapped in New Jersey are relatively a small part of those expended, as you know, very small, but in the discussions that I have had with colleagues, the feeling is if the funds were distributed essentially on the basis of children in the local educational agencies, this would incline districts to find the youngsters.

For example, at the present time we reimburse local agencies 50 percent for the funds they expend for the handicapped.

Even though this would incline them to want to identify all of the handicapped children that they could , we find that we are only identifying about 9 percent of our student population, as opposed to 10, which means that the argument that is frequently used, if one were to make funds available on the basis of children served, this would so inflate, children would be labeled in order to increase the amount of money available—we have not found that to be a problem.

Senator **Williams**. What would be the method of distribution under your suggested change of S. 6, as to excess cost formula?

The communities would report to you those disabled or handicapped children actually served, and you would feed this to the Federal department.

Mr. **Burke**. That is correct, to the agencies which are reporting.

The problem we have in a State like New Jersey, with over 600 school districts, is the lower the instance of the handicapped, the more inappropriate the local school district becomes as the vector for providing services.

Increasingly what we are finding for a variety of kinds of handicapped children is the development of new kinds of delivery systems. For example, recently we passed a $25 million bond issue to establish between five and eight centers for the very low incidence which the State would operate itself. For those handicapped of that not low incidence, a number of school districts are getting together and developing countywide delivery systems.

So that the funding could be to countywide delivery systems, special services, it could be to a regional school district to an LEA, depending upon the kind of handicapped children we are helping.

This is a constantly shifting situation and I think that the State will have to assume responsibility. Most States are now in the process of revamping their educational system, partly because of State court requirements.

We in New Jersey, in response to a court decision, are decentralizing ours. We have established 20 county offices. We think this will give us much more capability of implementing S. 6.

I do not think that we in New Jersey will have too much difficulty administering S. 6. I do not, from my experience throughout the country, feel this is true in every State.

Senator **Williams**. New Jersey has been a leader in special schools, serving those with disabilities. Am I right on that?

Mr. **Burke**. That is correct.

Senator **Williams**. Philosophically, how do you feel we should best proceed? Do you think the bill recognizes this situation here adequately in terms of the need for special and in a sense segregated educational facilities for some who are disabled?

Mr. **Burke**. Yes. I think it does. I think there is a sensitive balance demonstrated in the bill, an awareness that neither the policies of mainstream, or the philosophy of segregation is in and of itself adequate.

We will disagree in that middle area. There are a number of my colleagues who feel that we should have less mainstream, and others more so, but essentially I think this still demonstrates an awareness of this problem.

Senator **Williams**. Does the bill also lend itself to the goal of integration at the earliest time that it is educationally possible for disabled youngsters, the mainstream, as soon as possible?

Mr. **Burke**. I think it does, and also I think some concentration on parental problems at the early stages of the child would help.

There are a number of trends in that direction that I think we could conceive as an entity moving in that direction, the whole idea of the community school, and the perception of the school as an institution which provides services not for "normal" youngsters, but actually as a resource for the entire community, including those who are handicapped, and including parents increasingly.

Senator **Williams**. Some have suggested the detail would be too burdensome, for instance, the individualized written program for the child. My limited observation of the professionals who teach, those who are disabled, suggested to me that this kind of burden would not be objected to at all.

They feel a very close association, I believe, with their students, and to individualize the program, I would think fits what is done now in a way that this would define the most orderly way.

Mr. **Burke**. There probably are some States which have local school districts that would have some problems, but I think some changes should be made. We are already doing this in New Jersey, and the new ones we are replacing brings us even further down the road in providing individualization of the programs.

I definitely feel that this should go forward. We are all handicapped more or less, and ideally if we provided the kind of educational services for all, we would not characterize the numbers of handicapped or nonhandicapped, or grades one or four.

I think all educators would agree ideally a person's educational needs are distinct for that individual, possibly as distinct as his psychic and other needs.

It is only the state of the art which precludes us from addressing ourselves to that need.

We have a greater obligation to the handicapped, and if it takes a bit more time, and money to provide those programs, I believe this should be done.

Senator **Williams**. I know you are very active with your peers from other States, and I am just wondering whether you feel that the 2-year period called for in the law for all children to be served is too short a time.

Mr. **Burke**. I think that legislation of this sort will require a time period, so I do not think it is a question of should there be a time period or not.

My experience in public policy is in the absence of some kind of indication, particularly in difficult economic times as we have now, that planning for that would be put aside, and other kinds of priorities might come to the fore.

So I think that a period is necessary. Although I cannot speak for all States, I know that the States that I am familiar with, that have been active, and have developed plans for the handicapped have given some of the qualifications that I gave at the end of my testimony, for example, if we had to develop programs for the children from 0 to 2 or 3, this might be difficult, but with those reservations I think that a time period is necessary, and a 2-year time period seems to be approximately correct.

Senator **Williams**. Do you have an advisory council? You appointed this council?

Mr. **Burke**. For the handicapped, yes.

Senator **Williams**. You also get advice from the school board?

Mr. **Burke**. From the State Board of Education.

Senator **Williams**. Then how about the district board of education? Are they not a group which communicates with you?

Mr. **Burke**. Through a variety of ways, yes. There is actually probably need for documentation, but they are a fairly active educational fraternity in most States where dialogues of this sort occurs.

Senator **Williams**. I mean the elected school board.

Mr. **Burke**. The elected school board. The elected school boards define policy for that school district.

Senator **Williams**. Do you hear from them?

Mr. **Burke**. Very frequently.

Senator **Williams**. Again, my observations are obviously very limited, but I was exposed to a situation where I made a parenthetical remark at the dedication of a Freedom Shrine in a regional school on Sunday afternoon, and my parenthetical remark addressed itself to some disabled young adults who visited me here on Friday afternoon.

I had some comment from educators afterwards who told me this was a problem. The amount of attention, resources, money within the district that would be applied to the handicapped in this time of tight money is being cut back.

Mr. **Burke**. Right.

Senator **Williams**. Just as those earlier witnesses indicated, the disabled are not spoken for as forcefully or as loudly or persuasively as the majority.

Mr. **Burke**. I think that is the problem throughout education. Children are the largest minority, they do not vote, and in times of economic stress, I think there is a tendency to not do justice to the next generation.

If you make that as a generalization, I think you can find the most defenseless among the defenseless, and they tend to be handicapped.

We pioneered a program in its third year for the early childhood development. We are doing this now in 30 some districts. We had an item in the budget for $3 million to expand this to another 40 districts.

The districts we chose were with a sizable population. That was cut in half during the budgetary process, and at the present time it is zero funded in the budget, which will go before the appropriations board.

Even though we are trying to resolve a tax problem in New Jersey, if it is resolved, it is conceivable some of these programs might find their way. The parents have been very active, and very good. They demonstrated and made their wishes known, but they do not have any votes either.

Senator WILLIAMS. Thank you very much.

Senator RANDOLPH. Thank you, Senator Williams.

Senator Stafford?

Senator STAFFORD. Thank you, Mr. Chairman.

I want to express my appreciation to the commissioner for his answers to the questions, and his statement.

Mr. Commissioner, you suggest in your statement that in both S. 6 and the so-called Mathias formula there are difficulties presented, and you further suggest that we try to develop a formula based on a flat sum for every child served.

I have two questions on that part of your statement. Do you have any idea how much Federal money would be involved in New Jersey alone under a flat sum for each child served, and could you tell us if you have any estimate on what it might involve nationally?

Mr. BURKE. I think that it would depend, of course, on the amount one wanted to invest per each child served, so I think that the data is available.

We can tell you how many are served at the present time. We think we can tell you how many children there are needing service, but that is not precise. In some States we find that very difficult.

I think that through the Council of States we could come up with a figure of total number of youngsters who are served. There are some statistics that I do not have at my fingertips, which give proposed funding appropriation figures, which could indicate what costs would be.

Senator STAFFORD. Would it be possible to supply that information for the record for this subcommittee hearing?

Mr. BURKE. Yes, sir.

Senator STAFFORD. I would appreciate it if that could be done.

My last question is in connection with the flat sum suggested on page 4 of your statement, where you say:

> I would like to see this subcommittee devise a funding solution that would combine the best elements of both proposals. I would suggest a formula that incorporates a simple, flat sum for every child actually served by special services within each State.

Would that formula not exclude all those children who are not being served but ought to be in the various States?

Mr. BURKE. I am making an assumption that the rest of the act would, if passed, require that those children be served. They would be by definition and title, and to service.

Senator STAFFORD. Thank you very much.

Thank you, Mr. Chairman.

Senator RANDOLPH. Thank you, Senator Stafford. According to the excess cost estimates in the States, and the estimated funds to States under S. 6, in the State of New Jersey, the estimated average per pupil expense for handicapped children is $1,982. What is it now?

Mr. BURKE. The excess cost, or the cost?

Senator RANDOLPH. This would be the average per pupil expense for handicapped children.

Mr. **Burke**. Sorry.

Senator **Randolph**. Under the excess cost estimates for new Jersey.

Mr. **Burke**. Oh, I see.

Senator **Randolph**. We have secured some estimates from the Bureau of Education for the Handicapped.

Mr. **Burke**. About $880.

Senator **Randolph**. It indicates here the excess costs for handicapped children would be $901.

Mr. **Burke**. That is fairly close, then. I did a quick calculation here of $882. I am conservative.

Senator **Randolph**. Handicapped children age 0 to 21 served would cost an estimated $98,296,299. Is that a figure that seems correct to you? I am just trying to check this.

Mr. **Burke**. We think we have 15,000 children that are not now served in New Jersey, and 11,000 of those are preschoolers.

Senator **Randolph**. These cited on this chart of course are those who are now being served.

Mr. **Burke**. I thought the question you asked me was the number of youngsters who are not now being served, and the impact that would have upon this calculation if you utilized zero.

Senator **Randolph**. I asked the estimated cost. At present what is the cost per handicapped child?

Mr. **Burke**. At the present time the cost per handicapped child is the number you gave, approximately.

Senator **Randolph**. Yes?

Mr. **Burke**. That is correct.

Senator **Randolph**. Are approximately 99,000 children being served presently?

Mr. **Burke**. Yes.

Senator **Randolph**. That is a correct figure?

Mr. **Burke**. I am sorry, I am with you.

Senator **Randolph**. That is all I am trying to determine. The total excess cost in New Jersey would be more than $98 million?

Mr. **Burke**. That is correct.

Senator **Randolph**. According to this table, then the 75 percent excess costs under S. 6 would be almost $74 million?

Mr. **Burke**. That is correct.

Mr. **Randolph**. I am just checking these figures. The reason I mention this at the present time is because we recognize that there will be the matter of funding for this program that will be the concern of not one Member of the Senate, but all Members.

Yesterday, I noted in a statement in the Record that Senator Dole of Kansas, who often is very conservative as to funding programs, has had an intense interest in the needs of the handicapped. In his statement yesterday, he said:

"Federal efforts to hold down Federal spending and reduce the rate of inflation mean that the handicapped must face a continuous threat to the funding of programs that benefit them. While I am greatly concerned about the $70 to $80 billion deficits that are being considered this year, I strongly believe we should not forget the needs of the handicapped in putting together the Federal budget."

I read that only as an indication of the interest of the Senator as expressed in the Record. He recognizes the deficit situation yet says that here is a priority. That is my feeling, as Senator Dole has expressed it.

Mr. **Burke**. I would like to go on record as sharing his advice.

Senator **Randolph**. I have been told he made the statement yesterday, and I just checked the Record.

Senator **Williams**. That might seem as if he were sort of an involuntary witness here, but he is a good one.

Senator **Randolph**. Yes, he is very good.

Are there other questions or comments concerning the matters that have been discussed by Senator Williams and Senator Stafford? I want to say that we take your suggestions very seriously, and we will give them very careful consideration.

Your testimony has been very helpful to us in our determination of the funding process and how best the dollars can serve the handicapped child. Thank you very much, Mr. Burke, for your helpful testimony.

STATEMENT OF FREDERICK J. WEINTRAUB, ASSISTANT EXECUTIVE DIRECTOR FOR GOVERNMENTAL RELATIONS, THE COUNCIL FOR EXCEPTIONAL CHILDREN, RESTON, VA.

Senator **Randolph**. Would you give your name and the organization that you represent.

Mr. **Weintraub**. I am Frederick J. Weintraub, assistant executive director for governmental relations, the Council for Exceptional Children, Reston, Va.; representing 65,000 professionals in the area of special education.

We are most grateful for the opportunity to appear before you today to offer our comments with respect to the legislation before the committee which proposes significant amendments to the Education of the Handicapped Act.

If I may have my statement recorded in the record, I will try to summarize.

Senator **Randolph**. The statement will be included in its entirety. I know you will bring to our attention the points you wish to make.

Mr. **Weintraub**. Mr. Chairman, we have been before your committee on other occasions on similar legislations before the committee today. Therefore, we will today dispense with a further reiteration of the well-documented need for this measure, and instead focus our remarks on what we consider to be the major legislative issues remaining as the Congress moves toward what we trust will be approval of the amendments.

We have viewed with pleasure the significant advances made in the 93d Congress toward the achievement of two primary objectives on behalf of handicapped children, namely:

First, an appropriate public education for all of America's handicapped children; and second, a guarantee of the essential rights of handicapped children and their parents within the total educational environment.

More specifically, we are terribly excited about the provisions of Public Law 93–380, the Education Amendments of 1974, which contain the following:

A basic aid to the States program for the education of handicapped children, which has been significantly expanded in authority and appropriations by the 93d Congress.

A Bureau of Education for the Handicapped which for the first time is securely placed at the top of the administrative and executive system of our Federal Government.

Public Law 93-380 mandates all States to prepare and submit to the Commissioner a comprehensive blueprint for the education of all handicapped children in each State, including a detailed timetable for implementation of such a blueprint. It further mandates:

A priority in the use of EHA, title VI-B, funds for children not now receiving an education program.

A plan from the States for the provision of due process guarantees to all children served and their parents.

A plan from the States showing how all handicapped children will be educated in the least restrictive environment.

A plan from the States showing how they will prohibit the classification of children in a racially or culturally discriminatory manner.

A deinstitutionalization incentive in educational programing for children counted and served under the special entitlement of title I, ESEA, for handicapped children in State-supported facilities.

But despite the tremendous strides realized through the refinement of both national and State policy toward the liquidation of one of this Nation's last islands of extreme neglect, we find the Bureau of Education for the Handicapped reporting in 1975 to the Congress that only 55 percent of our school-age handicapped children and a meager 22 percent of preschool-aged handicapped children are receiving the public education programs which they so desperately require if they are to take their rightful place alongside their nonhandicapped peers in adulthood.

Moreover, we observe one Member of the Congress stating on the Senate floor, "In all, 3.9 million children are standing in the waiting lines for the fundamental equal educational opportunity on which our Nation is based."

The Council for Exceptional Children believes that it is time for the Congress to take one more step to get that schoolhouse door open, and keep it open, once and for all.

Mr. Chairman, the legislation pending before you would authorize a further, even more substantial Federal impact toward the guarantee of an appropriate public education for America's 7.8 million handicapped children.

We most heartily endorse both the general legislative objectives and the specific features of this significant legislative vehicle.

Furthermore, we feel that this legislation, having undergone continuing refinement since the beginning of this decade, having been analyzed and debated in innumerable public forums over the years, having gathered to itself the endorsement of a wide array of organizations and hundreds of thousands of parents and other concerned citizens—should now be moved and moved immediately.

Quite bluntly, every day of continued delay may mean that one more exceptional child may not be able to turn that corner to freedom and fulfillment.

Mr. Chairman, we would like to take this opportunity to comment on three paramount features which we feel most strongly must be contained in these important amendments of the Education of the Handicapped Act.

We are very pleased with these amendments. What we are suggesting now is a capstone be placed on amendments and legislation we have worked on so long. The time is now to see these carried out.

We, therefore, recommend the establishment of a permanent compliance mechanism which will ensure compliance in every State with those guarantees for which assurances are already sought in Federal legislation.

I will not repeat those guarantees which I noted earlier in my statement.

What do we see as the essential ingredients of such a compliance mechanism?

First, a compliance board based at the State level, composed of knowledgeable and concerned citizens, mandated to monitor educational systems to insure protection of rights and mandated to receive and make decisions upon complaints of rights noncompliance.

Second, responsibility vested in the U.S. Commissioner of Education to review any report from a given State board of substantial noncompliance which has not been remedied within a reasonable time period.

Three, responsibility further invested in the U.S. Commissioner to cut off Fed[illegible], State or local funds for education until such time as noncompliance has been remedied, during the process of which the commissioner shall himself afford appropriate due process for the alleged offending school district or State, or both.

Mr. Chairman, such an approach would have advantages for all.

Every school district would, within a reasonable period of time after establishment of these boards, have a clear picture of exactly what they should or should not do relative to handicapped children.

Parenthetically, Mr. Chairman, it is worth noting that the first comprehensive legislation on behalf of the education of handicapped children was enacted in 1967. It would indeed be a fitting capstone to a decade of effort and concern on the part of the Congress to enforce right to an education before 1978.

Mr. Chairman, one of the major problems of the handicapped is the multitude of delivery agencies. The consequent behavior reminds me of the television program "Chico." They are always saying, "It is not my job, man."

I am afraid that has become the byword of our American Society. The response we get, "It is not my job, man. It is not my job, man, it is his job." We go to the next agency, "It is not my job, man, it is his job."

We find children still caught between confusion of responsibility, in effect, bumped from agency to agency.

We feel the courts have been clear and we feel that the State education agency is the responsible agency for assuring all children an appropriate education. The State education agency should supervise all educational programs, regardless of the particular administering agency.

The movement toward the individualization of instruction, involving the participation of the child and the parent, as well as all relevant educational professionals, is a trend gaining even wider acceptance in numerous quarters throughout the Nation. In point of fact, this Congress and this committee have already expressed their attention to the need for increased individualization in at least two public laws, Public Law 93-112, the Rehabilitation Act Amendments of 1973, and Public Law 93-380, the Education Amendments of 1974.

We at the council have long been interested in the so-called "individualized written plan" for handicapped children for two fundamental reasons:

1. Each child requires an educational blueprint custom-tailored to achieve his or her maximum potential.
2. All principles in the child's educational environment, including the child, should have the opportunity for input in the development of the plan.

We feel that these amendments must contain such mandate of an individualized plan, including at least the following essential ingredient:

Such plan must be developed in consultation with the teacher, the parents or guardian of the child, and, where appropriate, the child himself.

Mr. Chairman, few would take issue with the proposition that one of the most difficult tasks for the Congress of the United States is the development of equitable and effective formula for the distribution of Federal moneys to a Nation of 213 million citizens, 50-plus divergent States and territories, and thousands of unique localities. The extensive debate which has accompanied the search for the right formula in the legislation before you is perhaps the most current witness to that proposition.

It is well known in all involved quarters that the Council for Exceptional Children has long supported the so-called "excess cost" approach in the distribution of funds at the Federal level for special education and related services. We fully understand that such an approach is controversial, that there are genuinely problematical factors in the implementation of such a funding mechanism.

While we still believe that "excess cost" offers as sound a formula as any other being considered, we maintain a completely open mind on the question of an alternative formula if such alternative is deemed more satisfactory by the leadership of this committee.

I would note parenthetically, as Commissioner Burke noted, the so-called lack of data, which has been recently confirmed by a study conducted by the commissioner of education.

However, I think the whole truth in the development of any excess cost formula is not being told. What we have is not really a data problem, is not really a lack of knowledge. What we have is an accounting problem. We have 20,000 school districts, 50 State education agencies, each keeping their books in a different manner.

When title I of ESEA was authorized, States changed their accounting behaviour to respond to Federal law. If Congress passes legislation of the excess cost nature, it is my feeling that we have the knowledge to implement it, and, two, States would be forced to adopt accounting procedures to provide data.

Parenthetically, we have also been quite willing to support the so-called "Mathias" formula as an intermediate funding mechanism pending final congressional disposition of the entire formula question.

It is our conviction that the characteristics of any formula are interconnected with at least a "ball park estimate" of how much money the Congress has in mind in annual authorizations; and, consequently, both questions must be dealt with concurrently.

But the council has an even more fundamental conviction, Mr. Chairman, namely, that the guarantees of an appropriate public education for all handicapped children contained in this legislation are far more important than the design of any formula contained in the same legislation. Correspondingly, the debate over the best formula should not be permitted to hold the larger mission of this legislation in virtual hostage, any longer.

Therefore, we conclude our remarks today by calling upon the leadership of this committee, which has the expertise second to none and the political sensitivity second to none, to take personal charge of this question, and bring a debate which has been painfully overextended to an early conclusion.

Noting, Senator Williams, your quotation in talking about stars and wings, I would hope that the future of these children is not in the stars, but is in the hands of the members of this committee.

We desperately call upon this committee to exercise its leadership for the handicapped.

Thank you, Mr. Chairman.

Senator RANDOLPH. Thank you very much, Mr. Weintraub. Your testimony indicates your thorough knowledge of the problems of the exceptional child.

Senator Stafford of necessity had to meet with a group of citizens from Vermont at 11:30. He hoped to return while you were still on the witness stand, but if that is not possible, he has certain questions which will be given to you to be answered for the record.

A few moments ago, you were giving the philosophy of some people who say, in essence, "Well, let's wait," or "let someone else do the job." That is what you were saying, is it not?

Mr. WEINTRAUB. I think so, Senator.

Senator RANDOLPH. Did you say that?

Mr. WEINTRAUB. I think so. Certainly if one looks at what happens to the handicapped child, for instance a child sitting at home, nobody wants to be responsible. Johnny is sitting at home. It is the other guy's responsibility, and then someone else, and someone else on down the line.

We had a parent come to us from New Hampshire who had threatened legal action. She had gone to eight agencies in her State, and in the Federal Government, all of whom said in very simple terms, "It is not my job."

Senator RANDOLPH. That is right.

Mr. WEINTRAUB. I think that it is time to end that and fix responsibility clearly.

Senator RANDOLPH. I wanted to underscore what you were saying.

I think it is the general experience of people who do understand the problems that they cannot understand why others do not feel the same commitment to the needs of handicapped people. I have had a feeling so often that there are three classifications of people. There are those persons who look at something and say, "That is the way it is today. That is the way it was yesterday, and it is okay with me to continue it that way tomorrow." They drop it. That is as far as they go.

There is a second group who see a need, but they do not attempt to address themselves to the need. They may have the talent; they have the money; they see the need; but they never associate themselves with doing anything about it. A considerable number of people are in this group.

However, there is always that third group who try to do something about the need.

What we need is more people who say "I want to make my contribution. I want to join minds, hearts and hands with others."

I know that when I first offered a constitutional amendment in 1942 for 18-, 19-, and 20-year old young people to be given not only the right but the responsibility of the vote, I thought it might pass. However, it did not pass until 1971. But I must now look at the fact that even though they were given the right and responsibility only a very small percentage voted in 1972.

I am not trying to find answers this morning, except to say that constantly we try and are disappointed by the very lack of people stepping up to the starting gate and doing their part.

Senator Williams, I have been talking, but it was brought on by what Mr. Weintraub said about someone else doing the job.

Senator **Williams**. I appreciate listening to your observations and I learned, as always, something from you, Mr. Chairman.

This distressing percentage of young people not voting, you know that is distressing, but it is an illuminating expression of opinion too. It shows a failure of the system here in credibility and in not responding to what the young people think is important.

This area we are talking about, those nonvoters 18-, 19-, and 20-year-old people, know what we are talking about here. As I read and listen to them, they know Government business is exactly what we are talking about here.

Mr. **Weintraub**. If I may comment, I think it is crucial. We forget what it is we are teaching people. Imagine yourself as a parent of a handicapped child, or a handicapped child and you come to school and knock on the door and say, "I am here to receive my education." You are told you cannot receive your education, or you are assigned to an inappropriate class without any due process of law in this crucial decision about your life. In effect you are denied certain very basic rights available to other citizens. Then as an adult you can be expected to be a full citizen and have a place in this country, and the rights and things guaranteed to its citizens. I do not know how you can help being fatalistic.

To me the parallel is that if an 18-year-old came to the polls to vote and we turned him away he would know the recourse to take and the highest level of Government would tremble, and yet today we sit and debate and discuss what is equally a constitutional question, whether that child has a right to go to school. We allow ourselves to engage in debates on this question and yet we do not engage any longer in debates on the right to vote. That issue was resolved equitably years ago; but the issue of the right to an education is, incredibly, still before us.

Senator **Williams**. Well, certainly the courts have helped us define the right to an education in the last few years. That is what we are trying to find, the means to carry out the fundamental law of the land.

We have had discussion of this bill and it is time that it is formalized. I wonder about the practicality of the 2-year mandate. Is that too short a time? Does that, in your experience, make sense?

Mr. WEINTRAUB. From my own vantage point, I would have no hesitancy to say the States should be told that it is difficult to talk about future rights. If you have a right to vote, it is not one to be postponed. If you have the right to go to school, you should have the right today.

However, I am willing to accept the issue of Federal mandate of compliance as somewhat distinct. On the one hand, justice must know no timetable. On the other hand, 2 years hence would be an acceptable target for absolute compliance. If one looks at the State legislation already on the books, I think the schools and States are definitely going on record and are starting to move in the direction of full compliance. I think there are a few instances, however, where States could not meet a 1978 deadline.

Senator WILLIAMS. One of the problems, I would imagine, would be to have those professionals, trained people, available to serve the disabled in a way that would meet the needs.

Your Council for Exceptional Children's membership is made up in good measure of professionals, trained educators, is it not?

Mr. WEINTRAUB. Yes.

Senator WILLIAMS. Do you have any idea how many unemployed, professionally trained people there are that could be serving these youngsters?

Mr. WEINTRAUB. The data we have, Senator, clearly indicates there is a substantial need for additionally trained personnel.

Senator WILLIAMS. Many who have been trained have been unable to find jobs.

Mr. WEINTRAUB. Unemployment depends upon where they are seeking employment.

Senator WILLIAMS. In New Jersey lots of them. They come to me to find jobs.

Mr. WEINTRAUB. In some areas of New Jersey there are 10 applicants for every job. You could go into other areas of New Jersey and perhaps find a school district desperately looking for someone. It is a question of distribution of people and allocation of resources that becomes the problem. In addition, we know in certain areas, for instance, in teaching the profoundly or substantially handicapped child, we do have much need for additional manpower. However, I think it becomes the Catch 22 logic to say we cannot serve children until personnel are developed. It is frankly difficult to develop the personnel until there is a clear mandate to serve the children.

If we mandate the services there will be a tremendous influx of new people in this field because there will be jobs available. In other words, a known market must exist.

Second, there are a vast number of people in general primary and secondary education who are looking for retraining in order to find work.

Parenthetically, I think we could find new, creative methods of training and retraining other than the 4 to 6 years formalized training program.

I think if the mandates are there, we will rather quickly discover the resources and the mechanisms to train people and encourage geographical distribution of people based upon child location.

I would note that the amendments you passed last year (Public Law 93–380, sections 611 and 613) call for the additional State plan, a portion of which is addressed to the allocation of personnel.

Senator **Williams**. The compliance mechanism, who appoints the Compliance Board? To whom do they report? This is your proposal, is it not?

Mr. **Weintraub**. Yes.

Senator **Randolph**. Mr. Weintraub, pardon me for interrupting, but I must take a phone call. It may take 5 minutes. There are some questions Senator Javits, a member of the Subcommittee on Education, wishes Mr. Weintraub to answer. He feels we might run into some difficulties with compliance with the States. If you would be kind enough, I will return in a few minutes.

[Senator Randolph leaves the hearing room.]

Mr. **Weintraub**. We have suggested that the advisory committee might be appointed by the Governor. But we are sensitive to the very telling comments offered by Commissioner Burke of New Jersey. If Commissioner Burke in New Jersey is willing to assume responsibility of providing education involved in State training schools, then we certainly could support the notion that he might be the one to appoint the board and, in effect, the board would report to him. He would be the agent responsible for carrying out the mandates of the act.

We would propose that the advisory committee set forth in the act be converted in 1978 to a compliance board, and we would concur with the composition of the advisory committee as spelled out in the current version of S. 6.

Senator **Williams**. This is a conversion of the Advisory Committee that we spelled out as a compliance group later?

Mr. **Weintraub**. As of 1978. In 1978 its function would shift to compliance, as we have spelled out in our testimony.

There are those that have proposed the use of the office of Civil Rights as the compliance mechanism. We see both merits and drawbacks to that proposition. The mechanism we proposed is one we think most States could effectively live with, and one which would provide some advantages in carrying out the mandate of the legislation.

Senator **Williams**. This might be accommodated by including someone who comes from close association with civil rights.

Mr. **Weintraub**. Certainly, sir.

Senator **Williams**. As I recall your testimony, the compliance boards report at the Federal level to the Commissioner.

Mr. **Weintraub**. What we visualize is a step-by-step process. The board would advise the State commissioner and the offending school district of noncompliance. The board would also recommend a remedy and would provide a reasonable time period for activating such remedy.

If, after that time period has elapsed, the school district or State has not remedied the situation, then the board would be committed to report to the U.S. Commissioner of Education that it is their feeling there is a violation and the Commissioner would be responsible for notifying the school districts of such violation.

One must honor the contention that, with 20,000 school districts and 7 million kids, it would be difficult to conceive of the Commissioner of Education or Office of Civil Rights having to be the primary intervenor in every single possible violation.

We think the State compliance board would be a good screening mechanism, first trying to resolve the problems within the State, while maintaining ultimate federal authority.

Senator WILLIAMS. I am glad I asked the question. That did not come through as completely in your statement. I appreciate that. I think it would be wise to report things to those who can make a difference and change things at the local level before it goes to authority on high and before withholding funds. That is what the penalty is.

Now Senator Javits' questions:

Could you comment on the historical record of the U.S. Commissioner of Education in enforcing compliance matters?

Mr. WEINTRAUB. Certainly. One could argue for direct withholding by the Commissioner without any intermediate mechanisms. However, one could make a counter argument that says the politics of having a compliance capacity enables more discreet negotiations to go on at various stages to resolve the many problems before threatening to withhold funds. I cannot imagine many school districts who would want to go to battle with the U.S. Commissioner of Education on this issue. School officials would not want to bring their case to Washington and argue that they do not want to educate the handicapped.

Senator WILLIAMS. This again is Senator Javits' question. Does it not hurt people in the greatest need to cut off an entire State when possibly only part of the State is out of compliance?

Mr. WEINTRAUB. I would certainly agree with that. I would think if one uses the penalty, the penalty should not be to lose your money for serving handicapped children. The penalty should be the withholding of educational funds. That is a substantial penalty. It penalizes all children. Again, the Congress has not been hesitant to use that penalty.

Witness the Buckley amendments, perhaps potentially one of the most comprehensive changes in the behavior of school districts that has ever been passed. The penalties are there and the compliance boards are there and not $1 of Federal money is necessarily there. Congress had no hesitancy to take that action on issues that concerned the privacy rights of children and families. This issue is just as substantive and just as dramatic as the issue of confidentiality.

One has to threaten the system where it counts and right now the only vehicle we have is the dollar.

[Senator Randolph returns to the hearing room.]

Senator WILLIAMS. One more question, Senator Randolph. I was trying to recall the Buckley amendments.

Mr. WEINTRAUB. The penalty is there and the penalty is loss of all education funds. Congress did not feel that one had to buy into school districts with money in order to get them to stop violating children's and parents' rights of confidentiality.

Senator RANDOLPH. Senator Williams, I am sure all of us are concerned when there is a failure to comply with law whatever the law might be. Mr. Weintraub is pointing out the penalties that could be imposed that could bring about the desired results.

In the Federal Aid Highway Act of 1974, we wrote in the provision that the highway funds allocated to the States would not be given to States that did not enforce the 55-mile-per-hour speed limit. We can withhold money from New Jersey or any other State that does not enforce the 55-mile-per-hour speed limit. We are working on that with the Department of Transportation and other agencies of Government. We have to have a penalty that really brings someone to the realization that funds are not forthcoming.

Senator WILLIAMS. Fred was saying on the Buckley amendment, no money went into the area of concern, but if the concern was not complied with, money generally from education could be withheld.

Mr. WEINTRAUB. I am saying from the standpoint of Council for Exceptional Children, the question of whether children have their rights guaranteed is not contingent on how much up-front money the Federal Government is providing.

Senator WILLIAMS. I believe this Buckley amendment came in, in response to questions that arose from Senator Javits. I do not think it was called the Javits-Buckley amendment.

Mr. WEINTRAUB. I do not believe so.

Senator WILLIAMS. You mentioned your concern with title I. Are there unique definition problems in the education of handicapped children which this legislation must address which do not affect other educational formula.

Mr. WEINTRAUB. I believe so, sir. If one looks at title I, it is based upon certain economic factors which are generally more easily determined. The issue of who is handicapped is not so easily determined. There are those who have suggested that with this type of legislation there might be a run on the Treasury. Schools would label everybody nearly conceivable as handicapped so they could get this Federal money.

That might be a pressing danger if the Federal Government assumes a large percentage.

Congressman Brademas asked a similar question and it has been suggested that, rather than attempting to tighten definitions, we might simply place a ceiling on the percentage of children. In most States we are talking of 10 to 12 percent of our school population.

Concurrently, we think it would be reasonable if one were to take the suggestion by Commissioner Burke, that Federal funding be on the basis of children served. We think it would be reasonable for the Federal Government to use that approach up to 12 percent of the population. Thus, definitional questions become reduced.

Senator WILLIAMS. This necessitates a labeling; does it not?

Mr. WEINTRAUB. Certainly.

Senator WILLIAMS. You do not find anything—I do not know the correct word—demeaning about that necessity, do you?

Mr. WEINTRAUB. If I could give an answer that is personal. If I could be labeled tall and good looking instead of fat and dumpy, I would love to have that label fixed. If someone wanted to fix the label of being rich, I would love it.

What is wrong with being labeled deaf? Being labeled deaf is wrong to the extent of using such a label for discriminatory purposes.

However, the appropriate use of labels when the response is to affirm people's rights and provide for their special needs is another matter.

I would refer the committee to the study by Nicholas Hobbs for the Secretary of HEW on the whole issue of labels. The conclusion was we need more labels. As long as resources are limited, we are going to have to label people to provide for their special needs.

Senator **Williams**. One final question, if I might, Mr. Chairman. If the formula were changed and adapted to some of the ideas expressed by Commissioner Burke, and if at the local level there should be abuses, would not a compliance board, if there were such, spot abuses in the system? Would not that be one of their jobs?

Mr. **Weintraub**. I think that would provide one means but I would also hope that the committee would, when it makes a decision about a formula and makes a decision about the scope of the legislation generally, address itself to the type of reporting mechanism the committee would want from the States. We will get the data we need if the committee spells it out in the legislation.

Senator **Williams**. That is a very fine suggestion. That helps us in our responsibility of oversight.

Mr. **Weintraub**. I think that should be a rule in all legislation. It is one thing to tell people what to do and another to make certain they report back to you.

Senator **Williams**. Yes. This legislation before us is in part an oversight hearing. Where do we go from here as a final conclusion?

Mr. **Weintraub**. Senator Williams, we have made tremendous progress in the last decade mainly through the leadership of the two gentlemen sitting in front of me. We have moved from an era when the philosophy was it is nice to serve these children if we have the resources to an era of getting the whole job done as a matter of right. The work we started in the early sixties now has come to some final package and now our job is oversight and making sure it is working.

Senator **Williams**. Thank you very much.

Senator **Randolph**. Thank you, Senator Williams. Thank you, Mr. Weintraub. And we thank also Senator Javits who is intensely interested in this subject matter.

[Witness excused.]

[The prepared statement of Mr. Weintraub follows:]

STATEMENT OF THE COUNCIL FOR EXCEPTIONAL CHILDREN TO THE SUBCOMMITTEE ON THE HANDICAPPED OF THE LABOR AND PUBLIC WELFARE COMMITTEE UNITED STATES SENATE

APRIL ~~8~~, 1975
15

Submitted on behalf of the Council by:

Frederick J. Weintraub
Assistant Executive Director
for Governmental Relations
The Council for Exceptional Children
Reston, Virginia

Mr. Chairman, Members of the Committee:

We are most grateful for the opportunity to appear before you today to offer our comments with respect to the legislation before the Committee which proposes significant amendments to the Education of the Handicapped Act. My name is Frederick J. Weintraub and I hold the position of Assistant Executive Director for Governmental Relations at The Council for Exceptional Children.

As you well know, Mr. Chairman, The Council for Exceptional Children is a national organization with a membership of approximately 65,000 professionals in the field of special education.

As you also well know, Mr. Chairman, we have been before this distinguished panel on prior occasions in recent years to offer our comments and recommendations relative to this legislation. Therefore, we will today dispense with a further reiteration of the well-documented need for this measure, and instead focus our remarks on what we consider to be the major legislative issues remaining as the Congress moves towards what we trust will be approval of the amendments.

We have viewed with pleasure the significant advances made in the 93rd Congress toward the achievement of two primary objectives on behalf of handicapped children, namely:

- an appropriate public education for all of America's handicapped children;
- a guarantee of the essential rights of handicapped children and their parents within the total educational environment.

More specifically, we now have firmly in place, primarily under the aegis of Public Law 93-380, the Education Amendments of 1974, the following:

- a basic aid to the states program for the education of handicapped children, which has been significantly expanded in authority and appropriations by the 93rd Congress;
- a Bureau of Education for the Handicapped, securely placed at the top of the administrative ladder for maximum visibility and maximum advocacy on behalf of exceptional children;
- a mandate to the states to prepare and submit to the Commissioner a comprehensive blueprint for the education of all handicapped children in each state, including a detailed timetable for implementation of such a blueprint;
- a priority in the use of EHA, Title VI-B funds, for children not now receiving an education program;

- a plan from the states for the provision of due process guarantees to all children served and their parents;
- a plan from the states showing how all handicapped children will be educated in the least restrictive environment;
- a plan from the states showing how they will prohibit the classification of children in a racially or culturally discriminatory manner;
- a deinstitutionalization incentive in educational programming for children counted and served under the special entitlement of Title I, ESEA, for handicapped children in state-supported facilities.

But despite the tremendous strides realized through the refinement of both national and state policy toward the liquidation of one of this Nation's last islands of extreme neglect, we find the Bureau of Education for the Handicapped reporting in 1975 to the Congress that only 55 percent of our school-age handicapped children and a meagre 22 percent of preschool-aged handicapped children are receiving the public education programs which they so desperately require if they are to take their rightful place alongside their nonhandicapped peers in adulthood.

Moreover, we observe one Member of the Congress stating flatly in Chamber remarks of March 20 of this year: "In all, 3.9 million children are standing in the waiting lines for the fundamental equal educational opportunity on which our Nation is based." The Council for Exceptional Children believes that it is time for the Congress to take one more step to get that school house door open, and keep it open, once and for all.

Mr. Chairman, the legislation pending before you would authorize a further, even more substantial federal impact toward the guarantee of an appropriate public education for America's 7.8 million handicapped children. We most heartily endorse both the general legislative objectives and the specific features of this significant legislative vehicle. Furthermore, we feel that this legislation, having undergone continuing refinement since the beginning of this decade, having been analyzed and debated in innumerable public forums over the years, having gathered to itself the endorsement of a wide array of organizations and hundreds of thousands of parents and other concerned citizens--should now be moved and moved immediately. Quite bluntly, every day of continued delay may mean that one more exceptional child may not be able to turn that corner to freedom and fulfillment.

Mr. Chairman, we would like to take this opportunity to comment on three paramount features which we feel most strongly must be contained in these important amendments of the Education of the Handicapped Act.

Education for All

Federal legislation for a number of years has promoted the achievement of a "full services" goal, namely, making available to all of our handicapped children an appropriate educational opportunity at public expense. But no legislation as yet has moved to provide a precise guarantee for children of school age, a basic floor of opportunity that would place all of the school districts of the Nation in compliance with the Constitutional right of equal protection with respect to handicapped children and youth.

We suggest that the case-by-case, "hit and miss" approach to the guarantee of children's rights within the total educational environment must be terminated, and we further suggest that such a termination by legislative design constitutes that next logical and appropriate direction at the federal level.

We therefore recommend the establishment of a permanent compliance mechanism which will ensure compliance in every state with those guarantees for which assurances are already sought in federal legislation:

* that every handicapped child of school age has in fact available to him/her a free, public education;
* that every handicapped child in a public education program is in fact receiving a free education, at no additional cost to parents or guardians;
* that every handicapped child is in fact being educated in the least restrictive environment;
* that every handicapped child and his/her parents, guardian, or surrogate are afforded all of the essential due process guarantees in all matters of identification, evaluation, placement, and re-evaluation;
* that every handicapped child is protected against testing materials and procedures used for classification and placement being selected and administered in such manner as to be racially or culturally discriminatory.

What do we see as the essential ingredients of such a compliance mechanism?

1. A compliance board based at the state level, composed of knowledgeable and concerned citizens, mandated to monitor educational systems to insure protection of rights and mandated to receive and make decisions upon complaints of rights noncompliance.
2. Responsibility vested in the U. S. Commissioner of Education to review any report from a given state board of substantial noncompliance which has not been remedied within a reasonable time period.

3. Responsibility further invested in the U. S. Commissioner to cut off federal, state or local funds for education until such time as noncompliance has been remedied, during the process of which the Commissioner shall himself afford appropriate due process for the alleged offending school district or state, or both.

Mr. Chairman, such an approach would have advantages for all:

1. Every school district would, within a reasonable period of time after establishment of these boards, have a clear picture of exactly what they should or should not do relative to handicapped children.

2. Such a board could bring valuable expertise and advocacy to the cause of children's rights within the state itself.

3. Such boards would seek to balance authority between the state and its traditional responsibility for education and the national government, with its responsibility to guarantee Constitutional rights.

Mr. Chairman, the states are now in the process of developing their new state plan requirements as set forth in P.L. 93-380, the Education Amendments of 1974. The Amendments now before us, if enacted, would not alter that process, but rather place the capstone on the process of achieving the "full service to all" objective. It might even be reasonable to assume the need for a "phase-in" to any new formula for distribution of funds under the basic grant program. If one puts all of these ingredients together, it might be most appropriate to set a final target date at the beginning of fiscal 1978 in which at a minimum every handicapped child of school age is guaranteed an education, state plans are to be implemented, and a compliance board on behalf of the rights of handicapped children is in existence. The states would have sufficient time to tool up, and any excuse for noncompliance in enforcement of the basic rights of children could be characterized as wholly suspect.

Parenthetically, Mr. Chairman, it is worth noting that the first comprehensive legislation on behalf of the education of handicapped children was enacted in 1967; it would indeed be a fitting capstone to a decade of effort and concern on the part of the Congress to enforce right to an education before 1978.

Mr. Chairman, we are prepared to submit to this panel legislative language to achieve the objective just discussed.

SEA Responsibilities

One of those requirements most urgently needed, and under serious consideration as part of the amendments now before the Committee, is the stipulation that the state education agency shall be the sole agency for carrying out provisions of this part and shall supervise all education programs for handicapped children within the given state.

Regardless of whether another state agency within the state is in fact administering an educational program for handicapped children, it is both appropriate and necessary that the agency designated as "educational" should have primary responsibility for at least the following reasons:

- to centralize accountability;
- to encourage the best utilization of educational resources;
- to guarantee complete and thoughtful implementation of the comprehensive state plan for the education of all children within the state;
- to ensure day-by-day coordination of efforts among involved agencies;
- to end the practice of "bumping" children from agency to agency with no one taking charge of the child's educational well-being.

Individualized Programs

The movement toward the individualization of instruction, involving the participation of the child and the parent, as well as all relevant educational professionals, is a trend gaining ever wider acceptance in numerous quarters throughout the Nation. In point of fact, this Congress and this Committee have already expressed their attention to the need for increased individualization in at least two public laws: P. L. 93-112, the Rehabilitation Act Amendments of 1973, and P. L. 93-380, the Education Amendments of 1974.

As you well know, we at the Council have long been interested in the so-called "individualized written plan" for handicapped children for two fundamental reasons:

- each child requires an educational blueprint custom-tailored to achieve his or her maximum potential;
- all principles in the child's educational environment, including the child, should have the opportunity for input in the development of the plan.

We feel that these amendments must contain such mandate of an individualized plan including at least the following ingredients:

1. Such plan must be developed in consultation with the teacher, the parents or guardian of the child, and, where appropriate, the child himself.

2. Such plan must include a statement of the child's present levels of educational performance.

3. Such plan must contain statements of the short-term instructional objectives to be achieved.

4. Such plan must contain a statement of the specific educational services to be provided, and the extent of integration into the regular classroom.

5. Such plan must show the projected date for the initiation and anticipated duration of services.

6. Such plan must include in every way possible objective criteria and evaluation procedures and schedules for determining whether instructional objectives are being achieved.

7. Such plan must be reviewed at least annually in consultation with parents or guardian, and revised where appropriate.

Mr. Chairman, few would take issue with the proposition that one of the most difficult tasks for the Congress of the United States is the development of equitable and effective formulae for the distribution of Federal monies to a Nation of 213 million citizens, 50-plus divergent States and Territories, and thousands of unique localities. The extensive debate which has accompanied the search for the "right" formula in the legislation before you is perhaps the most current witness to that proposition.

It is well known in all involved quarters that The Council for Exceptional Children has long supported the so-called "excess cost" approach in the distribution of funds at the federal level for special education and related services. We fully understand that such an approach is controversial, that there are genuinely problemmatical factors in the implementation of such a funding mechanism. While we still believe that "excess cost" offers as sound a formula as any other being considered, we maintain a completely open mind on the question of an alternative formula if such alternative is deemed more satisfactory by the leadership of this Committee.

Parenthetically, we have also been quite willing to support the so-called "Mathias" (after Sen. Charles McC Mathias, R-Md.) formula as an intermediate funding mechanism pending final Congressional disposition of the entire formula question.

It is our conviction that the characteristics of any formula are interconnected with at least a "ball park estimate" of how much money the Congress has in mind in annual authorizations; and, consequently, both questions must be dealt with concurrently.

But the Council has an even more fundamental conviction, Mr. Chairman, namely, that the guarantees of an appropriate public education for all handicapped children contained in this legislation are far more important than the design of any formula contained in the same legislation. Correspondingly, the debate over the best formula should not be permitted to hold the larger mission of this legislation in virtual hostage.

Therefore, we conclude our remarks today by calling upon the leadership of this Committee, which has the expertise second to none and the political sensitivity second to none, to take personal charge of this question, and bring a debate which has been painfully overextended to an early conclusion.

Mr. Chairman, we again thank you for the opportunity given the Council to appear today on behalf of handicapped children. In closing, may we simply reiterate that we stand prepared to make the full resources of The Council for Exceptional Children available to this Committee as it fulfills its legislative charge on this important issue.

THE COUNCIL FOR EXCEPTIONAL CHILDREN

CEC

June 4, 1975

The Honorable Robert T. Stafford
5215 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Stafford:

On behalf of The Council for Exceptional Children, I am pleased to respond to the following four questions which you requested following our testimony on April 15.

1.q. Hypothetically, if it became necessary due to an inability to find a solution to the funding question, would you support an extension of the so-called "Mathias" funding formula?

1.a. The Council for Exceptional Children, while historically supporting an excess cost funding approach, has also been willing to support other funding formulae if such are equitable, politically feasible and not injurious to the interests of exceptional children.

2.q. Do you have any thoughts on what other types of funding mechanisms might be used to implement S.6?

2.a. The only expertise we have on this subject is based on our experience with state funding. States have tended to use several major approaches with numerous minor variations in funding special education. First, is the per capita approach. Under this method, payment is made on the basis of a fixed sum for each handicapped child served. The second approach is a weighting formula where payment is based upon multiplying a ratio times the standard per pupil reimbursement to a school district. Thus, a handicapped child might generate twice the state support that a nonhandicapped child does. The third approach is based on program support. There are several major variations. One is the excess cost. Another is a fixed sum for each classroom provided, teacher hired or material purchased. In choosing a formula, we often find that each has its strengths and weaknesses. The critical ingredients become, does the formula deliver the resources equitably? Does the formula permit flexibility of programming for the children? Third, does the formula force the children into very defined categorical labels thus creating unnecessary stigma and perhaps inappropriate services? And fourth, is the formula passable and fundable?

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3.q. In your statement (page 5) in discussing the responsibilities of the State Education Agency, you indicate it should be solely responsible for the education of the handicapped child. I assume you are suggesting that they have overall responsibility and not that the SEA actually run each program. Is that the case?

3.a. Yes, we are simply asking that the state education agency ultimately be responsible for assuring that each handicapped child receives a free appropriate public education. If this were the case the parents would clearly know where to turn when their children are not receiving the services to which they are entitled. It is important to hold someone accountable until we clearly know who is responsible.

4.q. Do you feel that without substantial new federal support, both in money and manpower, that the due process procedures and procedural safeguards and compliance mechanisms could not be carried out effectively?

4.a. It has been our position that S. 6 should be seen conceptually as two pieces of legislation. First, a bill to assure the rights of handicapped children to a free appropriate public education. And secondly, a bill to provide financial assistance to the states to carry out education of the handicapped. While we strongly support both aspects of the legislation, we do not believe that the first is necessarily dependent on the second. The Congress last year in passing the Buckley Amendment on confidentiality enforce a right which many citizens have been denied. The Congress did so without providing any financial assistance. We cannot make the enforcement of our rights contingent upon the availability of our resources. The money certainly is needed, but we do not believe that the rights of children should be held hostage to its availability.

Thank you very much for the opportunity to respond to your questions. If there are any matters that you would like information on, please do not hesitate to let us know.

Sincerely yours,

Fred Weintraub

Frederick J. Weintraub
Assistant Executive Director for
Governmental Relations

FJW/ng

Senator RANDOLPH. Mr. Megel, if you will identify yourself and your organization, it will be helpful as we begin here.

STATEMENT OF CARL J. MEGEL, DIRECTOR OF DEPARTMENT OF LEGISLATION, AMERICAN FEDERATION OF TEACHERS, AFL-CIO

Mr. MEGEL. Thank you, Mr. Chairman. My name is Carl J. Megel. I am the director of the Department of Legislation of the American Federation of Teachers, an organization of nearly 500,000 classroom teachers affiliated with the AFL-CIO.

I have a statement I would like to have inserted in the record and then I would like to comment further.

Senator RANDOLPH. Mr. Megel, that will be helpful to the subcommittee.

Mr. MEGEL. Thank you very much.

Mr. Chairman and members of the committee, I was a Chicago teacher for a number of years. I also taught in downstate Illinois, for several years.

I was the national president of the American Federation of Teachers for 12 years, during which time I had an opportunity to visit many school districts throughout the Nation.

I know more about the lack of aid for handicapped people than I know about aid for handicapped people. And because I have both a personal and educational interest in this legislation, I am here as a representative of our organization to support S. 6 and to encourage the committee to speedily pass this legislation.

I want to compliment both Chairman Randolph and Senator Williams for their tremendous work throughout the years in support of handicapped legislation.

A minute ago you were talking about the fact that young people did not vote.

The same thing is true of women who did not vote for some time after they were given the vote. For centuries the handicapped were considered as outcasts. Only recently did we begin to think about them, as people.

Senator RANDOLPH. I never thought of a woman as an outcast, did you, Senator Williams.

Mr. MEGEL. My point is that it takes a little time for new ideas to come about.

I am interested in this legislation because in my testimony I indicated that I have two grandchildren who were born blind. Therefore, I have an empathy for this legislation. I know the problems these grandchildren had to go through to get ordinary attention.

Illinois has a school for the blind in Jacksonville, a school for the deaf in Jacksonville. The Chicago school system operates the Bell School for the Blind, and a school for crippled children, and another for the mentally retarded. However, it is a tremendous problem.

The legislation that we are considering, to provide authorization which we hope later to get the appropriation for, will very much help solve that problem.

We want to have the kind of program that will move into the mainstream of our educational system. Normal children who are in a school sometimes are very cruel to other children who are handicapped. This makes it difficult for handicapped children.

However, we do not want to reduce the quality of education in the school system. We do not want to reduce the quality by bringing people in to our schools who are handicapped. Therefore, we need to have teachers who are trained to teach such classes.

We would suggest that some efforts be made to provide colleges and universities with extra funds to provide teacher training courses to prepare teachers for these special types of classes. Not every teacher has the kind of empathy needed to teach handicapped children.

We support the excess cost formula. I think this can be done. The States can set up a program and this program could be set up differently in each State. I cannot conceive that any State would pass legislation that would be identical with any other State and still be in compliance with the Federal Government's position.

What we need is to get handicapped children and people full opportunity for an education to the extent of their ability and try to get them self-supporting rather than to become a drain upon society.

In my statement I mentioned that I have been a member of the President's Committee for Employment of the Handicapped. This committee has done a tremendous job.

Next month, in May, at the Washington Hilton Hotel there will be 3,000 or 4,000 people who will come from every State in the Union. Many will be handicapped. These handicapped people can fit into our society. The idea of employing handicapped people has grown tremendously in the last 10 years. There is a need for education and employment and people are ready for it. This is the time to do it. The education of all children cannot be delayed and neither can the education of the handicapped.

Thank you, Mr. Chairman.

Senator **Randolph**. In your capacity as director of legislation for the American Federation of Teachers, have you had the opportunity to see the impact of the total membership on the efforts that you are making with reference to understanding the need for and equity of educational opportunity for the handicapped?

Mr. **Megel**. Yes. And our teachers are becoming interested in taking special courses to training for special education and to qualify for teaching the handicapped.

Senator **Randolph**. I felt that you would get to your membership a concern of this kind.

Mr. **Megel**. We have.

Senator **Randolph**. Through you and others, the membership is informed of the situation.

Mr. **Megel**. The convention of the American Federation of Teachers, with 5,000 delegates at Toronto, Canada, had a resolution to support the education of the handicapped.

Senator **Randolph**. Senator Williams.

Senator **Williams**. You are serving now as a member of the President's Committee on Employment of the Handicapped?

Mr. **Megel**. Yes.

Senator **Williams**. You have been in that leadership position for 12 years?

Mr. **Megel**. Yes.

Senator **Williams**. You were appointed by?

Mr. **Megel**. President Kennedy, and I have been reappointed for succeeding terms.

Senator **Williams**. As legislative director of the American Federation of Teachers, your organization is made up of 500,000 teachers?

Mr. **Megel**. Approximately. We are approaching 500,000.

Senator **Williams**. Sometimes it is unwise to generalize from limited experience and observation, but my limited observation suggests to me that there are many people who are fully educated and trained to be teachers and who want to be teachers but who are unable to find jobs as teachers today. Is that accurate?

Mr. **Megel**. That is a new problem today, another reason why this legislation is so apropos at this moment. During the past 20 years, because of the tremendous increase in enrollment, we had a shortage of teachers. However, because the enrollment has decreased and because there are today many more students in our schools of education than there were in the past, we are going to have a surplus of teachers. In fact, it is beginning to become evident.

A recent gallop poll survey showed that there are 1½ million students in colleges today training to become teachers. This is the largest number in years.

We are going to have a flock of people who are trying to get jobs as teachers. Therefore, school administrators who are in positions of employment will have an opportunity, to do what I have maintained for a long time, and that is to be more selective in the quality of teachers they put in the classrooms.

Senator **Williams**. You made a comment on the excess cost formula of the bill. When you came to that conclusion, did you have the benefit of alternative formula or proposals we have had, such as Commissioner Burke?

Mr. **Megel**. No, they are my own, but I think what Commissioner Burke said has merit. I think with the suggested studies the committee can formulate a satisfactory program. We think having it done is important.

Senator **Williams**. I can see advantage in the approach of Commissioner Burke—maximize the number of youngsters who are disabled and handicapped getting an education.

Mr. **Megel**. I do not believe that to be a difficult factor. Practically every mother or parent who has a handicapped child is aware of the handicap. I know that from my daughter's experience.

Senator **Williams**. When we get to excess cost, this could vary from region to region in the country.

Mr. **Megel**. To some extent teachers' salaries vary from region to region.

Senator **Williams**. That is a big difference. Salary levels vary from region to region.

Mr. **Megel**. And State to State. There is one other point which I made in my statement: In big cities like New York and Chicago, it is estimated that 10 percent of all handicapped people are in those two cities. The States certainly should be encouraged to allocate additional funds to such areas.

Senator **Williams**. Do the percentages vary this much?

Mr. **Megel**. Percentages?

Senator **Williams.** Of the handicapped to the total population?

Mr. **Megel.** My estimate would be 7 million handicapped, 10 percent would be 700,000 who would be in New York and Chicago.

Senator **Williams.** What I am saying, while greater numbers are obviously in these more concentrated populations, getting out in rural areas, to the disabled or handicapped come to the same percentage?

Mr. **Megel.** I doubt that. However, in rural areas you have additional expense because the handicapped are farther apart and in different parts of the State.

Illinois has a system called home teachers—a blind teacher who goes from home to home to teach blind children in their homes. There are several things which these teachers do. They not only teach blind children braille, but also teach the psychology of blindness to parents so they can work with the blind child.

In rural areas like Vermont, southern Illinois or in sparse areas like Nebraska, such a system works. While we see the greater part of the money go to the larger cities, the terrain of each State should determine allocation of funds.

Senator **Williams.** Mr. Megel, could you comment on the provision of S. 6 which requires the development of individualized written plans for the youngster to be served?

Mr. **Megel.** I am not familiar with the question, Senator. Are you talking about a State plan or a local——

Senator **Williams.** No, if teachers would have a responsibility to individualize education for the disabled youngster being served.

Mr. **Megel.** Yes, that is highly desirable for several reasons, to give the teacher a better idea of the needs of that individual child. Two, the local education office will have a record that can be compiled and given to the State compliance body.

Senator **Williams.** The point is we do not want to be put in the 30–40 class size. We hope to have in our school system population of any class not to exceed 20. We are making progress in reducing class size. Therefore, a teacher who has some handicapped people in classes should be given special privileges by having reduced class size.

Is class size a legitimate collective bargaining issue?

Mr. **Megel.** Yes, it is, and we have many contracts that specify class size. We have not been able to get class size down. It is a money matter. For instance, in Chicago it costs millions of dollars to reduce class size by one. It is an expensive item.

Senator **Williams.** Thank you very much.

[Witness excused.]

[The prepared statement of Mr. Megel follows:]

STATEMENT
BY
CARL J. MEGEL, DIRECTOR
DEPARTMENT OF LEGISLATION
AMERICAN FEDERATION OF TEACHERS, AFL-CIO

BEFORE THE
SUBCOMMITTEE ON THE HANDICAPPED

Mr. Chairman, members of the Committee: My name is Carl J. Megel. I am the Director for the Department of Legislation of the American Federation of Teachers, an organization of nearly 500,000 classroom teachers affiliated with the AFL-CIO.

We are pleased to have the opportunity to speak in support of legislation which would guarantee the right of every handicapped child in the United States to an education to the extent of his capacities and to the extent possible to prepare him for gainful employment in accordance with his abilities.

The world has been most unjust and unkind to the handicapped. Ancient nations and tribes have subjected untold misery and even death to the handicapped. Such cruelty was inflicted even though their disability was not of their making and in most cases an accident of birth.

There are approximately seven million handicapped children in our nation. All are in need of proper education facilities. Although many of these children are enrolled in our public schools, only a very few receive special education. One child may be getting an hour a week of special therapy, a second child may be receiving intensive training in reading skills while a third sits idly in a classroom unaided and neglected.

The truth is that hundreds of children in classrooms across our nation are failing to develop or to learn simply because they have never been identified nor have they been provided with special services. Other thousands of handicapped children live in large impersonal state institutions stagnating for lack of care, while other thousands are simply sitting at home untouched by any social or educational service.

A handicapped individual, with latent ability to become fully or partially self-supporting, becomes a liability instead of an asset to our society when there is a lack of special education or training for full development of skills and talents.

Training for employment is the special consideration of the President's Committee for Employment of the Handicapped. It has been my privilege to have served, by appointment of the President, on this Committee for the past 12 years. Their annual meeting is attended regularly by more than three thousand persons representing every state in the union. The purpose of this conference is to demonstrate the latent abilities of the handicapped to provide functional services for any employer.

Rarely do you find a family in which there are no handicapped persons. In my own case two of my grandchildren were born blind. The difficulty which they experienced in finding schools prepared to teach braille or to supply braille textbooks, tape recorders and other essentials can hardly be documented. In spite of these tremendous hardships, however, both of these young people managed to graduate from a state university with high honors and are now gainfully employed.

What is true for the blind children is true for the deaf children and even in a greater degree for the mentally retarded and otherwise physically handicapped. Moreover, another fact must be considered. Of the more than seven million handicapped children the greater numbers are to be found in our cities. At least 10% of these handicapped children are living in New York and Chicago. Accordingly we support categorical aid to help the states equalize their financial requirements with special consideration for large cities' handicapped population.

We further support the following items:

--require any state participating in this program to provide a free appropriate public education for all handicapped children;

--provide federal payments of 75% of the average additional costs required to provide education for handicapped children, and to be paid to a state for every child to whom they are providing a free appropriate public education;

--require states to provide assurance that such funds are allocated as a supplement and in no case to supplant existing State funds;

--allow the state to a right to formulate education policy for all handicapped children;

--allow local Educational Agencies within the States and within prescribed limitations to exercise formulation of programs, assign teachers and determine curricula in accordance with local needs.

--handicapped children should be educated together with children who are not handicapped except in the most severe cases;

--since services for handicapped children require employment of teachers with special education training, we strongly recommend that direct allocation be made to colleges and universities which set up programs for training teachers of handicapped children.

In general we support Senate Bill No. 6, introduced by Senator Williams and others, with special attention to the above listed items.

We would estimate that such a program would cost approximately two billion dollars in the first fiscal year. Increasing amounts would be expected in the subsequent years.

We thank the Committee and appreciate the opportunity to make this presentation.

Senator WILLIAMS. *Senator Randolph was called to the floor.* Mr. Dowling.

STATEMENT OF RICHARD J. DOWLING, DIRECTOR OF LEGISLATIVE AND LEGAL AFFAIRS, AMERICAN SPEECH AND HEARING ASSOCIATION, WASHINGTON, D.C.

Mr. DOWLING. I am Dick Dowling, director of legislative and legal affairs, American Speech and Hearing Association.

The American Speech and Hearing Association is a national scientific and professional society made up of more than 20,000 speech pathologists and audiologists, 7,500 of whom work in elementary and secondary education settings. About twice that number, 15,000 to 16,000 speech pathologists and audiologists, half of which are not members, work in public school settings and render their services to the following populations of handicapped children:

1.1 million speech handicapped children, representing 52 percent of the speech-handicapped total; 44,430 hard-of-hearing children, representing 17 percent of the hard-of-hearing total; and 20,771 deaf children, representing 45 percent of the deaf total.

We have testified four times on the 93d Congress version of S. 6: First, in March of 1973 here in Washington, then again in April 1973 at subcommittee hearings conducted in Newark, N.J., and twice again in May at hearings held in Boston, Mass., and Charleston, S.C.

In anticipation of those hearings and of Congress' deliberation of S. 6 and the important and difficult problems it poses, we took a comprehensive survey of the speech and hearing consultants in the 50 State departments of education. These were among the questions we asked: How do you classify handicapped children in your State? What are the criteria? Does your State currently require an "individualized written program?" If not, why not? Do you think one is advisable? We asked about special classes for children whose handicaps cannot be treated in the school setting. We asked about excess costs and about teacher-pupil ratios.

We were very disappointed with the results; they went all over the place. The consultants reported widely differing classifications for handicapped. In some States language was a handicap, and speech not. In others, speech was a handicap, but not language. Some States had no meaningful criteria for classifying handicapped children at all. Among States that had concerned themselves with excess costs, formulas differed markedly, as did teacher-pupil ratios both extant and "ideal." Some States with current requirements for individualized written plans and others with no such requirements considered such plans as "essential for appropriate educational services to handicapped children." But other State consultants offered that individualized plans would generate more administration for special education systems, and cause less education.

For a time, we believed the nonuniformity of our survey's results rendered them useless. We have come to realize, however, that the absence of uniformity is most significant, indeed. Because of it, we feel we must ask the subcommittee to assign at least present priority to S. 1264.

ASHA maintains its support for S. 6 as a more perfect, ultimate solution to the problem of providing both the resources necessary to State efforts and the criteria according to which their efficacy and equity can be assured. But perfection, unfortunately, takes time. We believe that valuable time may and likely will be wasted if the Congress imposes a new, relatively untested mechanism on 50 separate and very distinct jurisdictions, virtually all of which have only just begun to feel the impact of judicial and legislative equal opportunity mandates. We think that time can be better utilized, at least in the near future, by providing the separate States the resources they need to accommodate their respective systems of educating the handicapped to the equal opportunity mandate each is receiving. This is not to say that important, vitally necessary elements of S. 6 should not be incorporated in S. 1264. We would like to see added to S. 1264 such of S. 6's provisions as those which call for State timetables for accomplishing the full educational opportunity goals, State plans in detail, State priority setting with respect to severely handicapped children, due process guarantees and affirmative action mandates, and the withholding of funds from noncomplying jurisdictions. At least for the immediate present, however, we would not like to see an elaborate funding formula thrust upon the States without further deliberation and, ultimately, a guarantee not present now that the formula finally adopted is equitable as well as effective. We agree with the Council on Exceptional Children that the debate over the best formula should not be permitted to hold captive the larger purpose of this legislation.

A second major reason for our belief that the time for final congressional action on S. 6 and its funding formula may not now be ripe relates to our concern that this major funding program arguably falls into the category of new funding programs. The President, as you know, has promised to veto any such programs that come to his desk in 1975. We believe that S. 1264, representing a new funding level for an existing funding program, has a significantly better chance of final enactment this year.

I have a prepared statement which I would appreciate being included in the record, Senator.

Senator WILLIAMS. It will be inserted at the conclusion of your testimony.

Did you, in your summary just now, include the main points of your statement?

Mr. DOWLING. Yes, sir.

Senator WILLIAMS. I did miss that last point. You were in agreement with the council, yet it sounded to me like you were somewhat in disagreement.

Mr. DOWLING. I expressed concern that protracted consideration of funding formulas might hold needed resources captive.

Senator WILLIAMS. We had better get this clarified. You are talking about Mr. Weintraub's statement, are you not?

Mr. DOWLING. The last sentence of the first paragraph on the last page, Senator.

Senator WILLIAMS. I get you. The reason I was not clear on that, we are certainly not going to let the debate over the best formula hold anything up here. That is not a problem.

The other suggestion, your feeling that some of the more detailed demands of S. 6 are not practical. Now, is that what your conclusion is?

Mr. **Dowling**. Yes, sir. We have reservations about the individualized written plan requirement.

Senator **Williams**. Give me some of those aspects of S. 6 that you find would be ultimate goals but not of immediate application to the formula.

Mr. **Dowling**. I ought first to reiterate our statement's commitment to the immediate implementation of such S. 6 provisions as those which call for detailed State plans, State timetables for achieving full educational opportunity, priority setting regarding severely handicapped children, and affirmative action and due process guarantees. We need these important initiatives and the sooner we have them, the better.

But we do have problems with the prospect of immediate, nationwide implementation of the individualized written plan requirement. We wonder whether, by requiring more administration, we will invite less education. Those of our members who work in rehabilitation settings have been operating for some months now under the individualized plan requirement of the Rehabilitation Act of 1973; some have expressed serious concerns about the viability and vitality of that requirement—there seems to be a great deal of misunderstanding about it, widely diverse interpretations, very little review and enforcement, and therefore virtually no assurance of the level of accountability the requirement was intended to foster. One requirement contained in S. 6 seems not to have any more specificity than the one in the Rehabilitation Act, and that's a concern. One needs handicapped programs that work; it isn't enough any more that program designs are high sounding.

What we would ask is that the individualized written plan concept called for in S. 6 be tried out on a limited basis, with Federal funding and with full Federal effort behind it, so that the product we achieve will be a higher grade individualized written plan than the one generated by the rehabilitation legislation.

I am not going to say we do not need individualized written plans today. We do. But we stand a better chance of achieving the kind of objectives everyone agrees we need to achieve if the requirements are such that they can be achieved, and by an orderly process. If it works, say in Illinois or Iowa, then we can apply the plan the Federal Government has helped develop in other places.

Senator **Williams**. What is the experience in the areas you know best, speech and hearing disability? Is the individualized plan a unique thing or a general method of meeting an individual's particular educational situation?

You mentioned the Mount Carmel Guild. We had a hearing there. It would seem to me this was their method of operating, if a youngster was known and individualized in his respective educational process.

Mr. **Dowling**. I think it's safe to say, Senator, that the overwhelming majority of special educators in the country utilize and rely very heavily on the individualized plan in meeting the needs of their special pupils. It's part of their training; it's part of their day-to-day responsibilities. And, as you say, it's part of the guild's method of operation. Without question, it's an important part of the clinical role of speech and hearing professionals working in the schools.

Our concern, though, does not reside with special educators, but with the teacher of the integrated classroom, the school principal, and the school administrator, whether at the local or the State level. These are the people who will mean success or failure for the individualized plan concept. Unless they can have detailed instructions on how the plan is composed, overseen, administered, and enforced, it will fail.

Getting back to the Mount Carmel Guild—we're not talking about a public school system here, but a rather rarified environment; an exemplary environment.

Our recommendation would be that we create one of these very rarified environments in a State educational system and then show that model to the other States. Our concern is based on experience. The individualized written plan we have now under the Rehabilitation Act, so far as we can see, does not work well. We hate to see that happen here.

Senator WILLIAMS. I am advised that this conclusion of the individualized plan under the Rehabilitation Act has not come to this committee other than in your testimony.

Mr. DOWLING. I do not speak for the rehabilitation community. I speak for some of our members who are participants in State rehabilitation systems and from what conversations I have had with rehabilitation representatives generally.

All of us agree that the idea is great. All of us are working hard to make it work. All I am saying is that it has not worked up to everyone's expectations. In fact, it could have been better planned before it was implemented. I think it could have been better tested. I do not know how.

I do not think that States or the Federal Government are able to do anything in an enforcement way, that they are either willing or able to do anything about an individualized written plan that fails. I am not so sure they have an accounting system that can assure that they will even know about an individualized written plan that fails. It is those kinds of considerations and these conversations and input that led me to talk this way about this individualized written plan.

At this point I order printed the prepared statement of Mr. Dowling and all statements and information supplied for the record of those individuals that could not appear for the hearings.

[The information referred to follows:]

ASHA
AMERICAN SPEECH AND HEARING ASSOCIATION
9030 Old Georgetown Rd., Washington, D.C. 20014

STATEMENT OF THE AMERICAN SPEECH AND HEARING ASSOCIATION
BEFORE THE SUBCOMMITTEE ON THE HANDICAPPED
OF THE SENATE LABOR AND PUBLIC WELFARE COMMITTEE
REGARDING S.6, S.1256, AND S.1264 --
BILLS TO AMEND THE EDUCATION OF THE HANDICAPPED ACT

Presented by

Richard J. Dowling, Director of Legislative and Legal Affairs
American Speech and Hearing Association

April 15, 1975

THE SPEECH AND HEARING PROFESSION

The American Speech and Hearing Association (ASHA) is a national scientific and professional society made up of more than 20,000 speech pathologists and audiologists. The speech pathology and audiology profession is the primary discipline concerned with the systems, structures, and functions that make human communication possible; with the causes and effects of delay, maldevelopment, and disturbance in human communication; and with the identification, evaluation, and habilitation of individuals with speech, language and hearing disorders. Speech pathologists and audiologists considered "qualified providers" under Medicare and Medicaid regulations must hold a Master's degree in their field of specialization and have completed a "fellowship year" of supervised clinical internship. These standards are also among those set by ASHA for achievement, on the part of potential service providers, of the ASHA Certificate of Clinical Competence in speech pathology or audiology. ASHA additionally requires the passing of a national examination administered by the Educational Testing Service, Princeton, New Jersey.

Speech pathology and audiology practitioners render their professional services in such settings as hospital speech and hearing clinics, free-standing outpatient speech pathology and audiology clinics, university outpatient clinics, outpatient rehabilitation centers (e.g., Easter Seal agencies), Veterans Administration hospitals, Head Start programs, private practice, and private and public schools. Among those in the nation's communicatively handicapped population with whom speech pathologists and audiologists work are the many thousands of Americans (including 20 to 25 percent of all persons 65 and older) who experience bilateral hearing losses of a magnitude sufficient to seriously restrict their understanding of speech. Also included are those Americans for whom cancer-caused removal of the larynx results in a total loss of voice, and those who experience a significant reduction in language function (aphasia) as a result of stroke. Clients additionally include children and adults with such identifiable disorders as receptive and/or expressive language impairment, stuttering, chronic voice disorders, and serious articulation problems affecting social, emotional, educational, and/or vocational achievement; and speech and language disorders accompanying conditions of hearing loss, cleft palate, cerebral palsy, mental retardation, emotional disturbance, multiple handicapping conditions, and other sensory and health impairments.

The most recent federal government data puts at 20 million the number of communicatively handicapped Americans.[1] A report on the government's study termed a population of 236,000 deaf Americans "a conservative total."[2] The same report estimated that some 8½ million Americans have "hearing problems of one type or another which are less severe than deafness but which impair communication and hence social efficiency."[3] Americans plagued by central communication disorders (e.g., impairments of speech and language resulting from stroke or mental retardation) were estimated at 2.1 million, and those with speech disorders at an astonishing 10 million.[4]

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[1] Report of the Subcommittee on Human Communication and Its Disorders, National Advisory Neurological Diseases and Stroke Council (NIH), *Human Communication and Its Disorders -- An Overview*, Bethesda, Maryland (1969).

[2] *Ibid.*, p.11.
[3] *Ibid.*, p.13.
[4] *Ibid.*, pp. 16-17.

SPEECH, LANGUAGE, AND HEARING SERVICES IN THE SCHOOLS

About 40 percent of ASHA's total membership -- more than 7500 individuals -- practices its profession in elementary or secondary schools, including schools and classes for the deaf. We calculate that this number represents just less than half the total number of speech, language, and hearing professionals employed in elementary and secondary school settings; viz., there are approximately 16,000 such professionals working in the schools. The population of handicapped children served by these practitioners[5] is as follows:

1,122,232 speech handicapped children, representing 52 percent of the speech handicapped total;

44,430 hard of hearing children, representing 17 percent of the hard of hearing total;

20,771 deaf children, representing 45 percent of the deaf total.

Figures are not available on either the number of language handicapped children in the nation or the number of language handicapped children receiving special education services in the schools. It should be noted that the percentages expressed above refer to school-age children. The percentages relative to preschool-age children receiving appropriate and necessary special services would obviously be significantly lower.

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[5] State Law and Education of Handicapped Children: Issues and Recommendations, Frederick J. Weintraub, Alan R. Abeson, and David L. Braddock, Arlington, Va.: Council for Exceptional Children (1971).

S.6, S.1256, AND S.1264

Mr. Chairman, we are grateful for the opportunity you've offered us to present our views on a most critical issue, involving whether this nation will put its money where its mouth is with respect to the education of handicapped children. Courts and legislatures around the country have begun finally to proclaim that handicapped children have a right to education that is equal, irrespective of costs necessary to make it so, to the education enjoyed by nonhandicapped children. But without action by this Subcommittee, the proclamation of right will be a hollow one; the states simply do not have the wherewithal to make the right to equal education a reality for handicapped children. Obviously, you intend that the Subcommittee act and act quickly and we commend your doing so.

ASHA offered its views on the 93rd Congress version of S.6 four times: first in March of 1973 here in Washington, then again in April 1973 at Subcommittee hearings conducted in Newark, New Jersey, and twice again in May at hearings held in Boston, Massachusetts, and Charleston, South Carolina.

At each of these appearances, ASHA expressed support for the legislation's goal of helping provide quality special education services to all of the nation's special children. We are still supportive of that goal. We are also generally supportive of the thrust of such of the current legislation's provisions as those which call for detailed state plans, state timetables for accomplishing the goal of full educational opportunity, state priority-setting with respect to severely handicapped children, due process guarantees and affirmative action mandates, and the withholding of funds from noncomplying states and local education agencies. ASHA believes that the responsibility for providing education rests principally with the states. But we also concur with the authors of S.6 in their belief that major responsibility resides with federal government to assure that federal monies put at the states' disposal are utilized in the nation's best interest, according to guidelines reflecting that interest.

During testimony before this Subcommittee on March 23, 1973, ASHA made the following comment on S.6:

> Senator Williams' proposed Education for All the Handicapped Act (S.6) recognizes the responsibility of the separate states to provide free and appropriate public education to all handicapped children, and commits the federal government to a necessary assistance role in meeting this critical goal.
>
> The American Speech and Hearing Association is enthusiastic about the legislation's promise, for the provision of quality special educational services to all of this country's special children is much needed and long overdue.
>
> One of the legislation's most appealing aspects in our view, is the strategy it provides to handicapped children and the professionals involved in their education for winning the kinds of educational services that will enable them to achieve full equality of opportunity. The proposal points out that some 4.2 million handicapped children do not now receive these appropriate educational services, and that one million of these are excluded entirely from public school systems. The Act implies that while the federal government appreciates the critical nature of the situation, the states, wherein the primary responsibility for public education resides, often do not, operating as they are under constrained fiscal resources and other pressures. And so S.6 counsels handicapped children, their parents, and the professionals who share responsibility for their education to illustrate for the states the sad but true state of special education, the needs which must be met if we are to achieve the goal of free and appropriate education for all of America's handicapped children, and the costs which must be shouldered by state and federal governments in meeting these needs.

The collection of data on a state-by-state basis, which responds to a number of difficult but eminently appropriate questions posed by the proposal, is necessary to the development of an evidentiary case of the scope essential to any such illustration. Earlier this year, ASHA put S.6's questions to speech and hearing consultants in the 50 state departments of education, and to members of six of the Association's scientific and/or education-oriented committees. Included among the queries were the following:

1. Does your state have "criteria" for classifying as "handicapped" children who are "hard-of-hearing, deaf, speech impaired, ... or children with specific learning disabilities" attributable to speech, language, or hearing impairments? If so, what are they?

2. Does your state currently require an "individualized written program" for each handicapped child? Is one practicable? When and how should speech pathologists and audiologists participate in its preparation and maintenance?

3. Under what circumstances does a child with a speech, language, or hearing handicap require "special classes, separate schooling, or other removal of handicapped children from the regular educational environment?" What percentage of communicatively handicapped children are now being served in this way?

4. Perhaps most importantly, what are the "additional" and "excess" costs (i.e., over and above the expenses for educating nonhandicapped children) which must be met if speech, language, and hearing handicapped children are to be provided equal education? What is the rate of current reimbursement of excess costs for services to speech, language, and hearing handicapped children? Upon what formula is the reimbursement based? Is it adequate? If not, how would you change it?

5. One extra cost is a lower teacher-pupil ratio. What should the ratio be where speech, language, and hearing handicapped children are concerned?

We were initially disappointed by the results of our survey, Mr. Chairman, because of their singular lack of uniformity. Some states had no meaningful criteria for classifying handicapped children; of those that did, criteria differed markedly. A few states had individualized written plan requirements of sorts, but most did not; and spokesmen for some of these latter claimed they hoped they would not have to require such plans. Excess costs were calculated in most states, but according to widely differing formulae. And teacher-pupil ratios, both extant and "ideal," varied substantially.

For a time, we believed the nonuniformity of our survey's results rendered them useless. We have come to realize, however, that the absence of uniformity is most significant, indeed. Because of it, we feel we must ask the Subcommittee to assign priority to S.1264.

ASHA maintains its support for S.6 as a more perfect, ultimate solution to the problem of providing both the resources necessary to state efforts and the criteria according to which their efficacy and equity can be assured. But perfection, unfortunately, takes time. We believe that valuable time may and likely will be wasted if the Congress imposes a new, relatively untested mechanism on 50 separate and very distinct jurisdictions, virtually all of which have only just begun to feel the impact of judicial and legislative equal opportunity mandates. We think that time can be better utilized, at least in the near future, by providing the separate states the resources they need to accommodate their respective systems of educating the handicapped to the equal opportunity mandate each is receiving.

In the meantime, the Congress and the Administration can address the questions that must be answered before a law of the proportions suggested by S.6 can be responsibly enacted. We have doubts, for example, that a single funding formula can be applied to largely rural and predominantly urban states alike. We also wonder whether an "individualized written plan" requirement is practicable, or whether, by requiring more administration, such a plan invites less education. We have no answers to these questions; nor, apparently, does anyone else. We would hope that answers will be sought; they can be, effectively and expeditiously, we believe, through the mechanism of federally-administered grants/contracts with state departments of education, colleges and universities, and other appropriate institutions and organizations.

A second major reason for our belief that the time for final congressional action on S.6 may not now be ripe relates to our concern that this major funding program arguably falls into the category of "new funding programs." The President has promised to veto any such programs that come to his desk in 1975. We believe that S.1264, representing a new funding level for an existing funding program, has a significantly better chance of final enactment.

Finally, Mr. Chairman, as between S.1256 and S.1264, we should like to express our preference for the latter proposal, for the simple reason that it would provide planners at federal, state, and local levels a greater degree of assurance with respect to resource-provision appropriateness and consistency.

Again, Sir, we appreciate this opportunity to express our views.

nea
NATIONAL EDUCATION ASSOCIATION • 1201 16th St., N.W., Washington, D.C. 20036 • (202) 833-4000
JAMES A. HARRIS, President
TERRY HERNDON, Executive Secretary

STATEMENT OF

JAMES A. HARRIS

PRESIDENT

OF THE

NATIONAL EDUCATION ASSOCIATION

ON S. 6

THE EDUCATION FOR ALL HANDICAPPED CHILDREN ACT

AND

ON S. 1256 AND S. 1264

THE EXTENSION OF THE MATHIAS AMENDMENT

BEFORE THE

SUBCOMMITTEE ON HANDICAPPED

OF THE

SENATE COMMITTEE ON LABOR AND PUBLIC WELFARE

Mr. Chairman and Members of the Subcommittee, I am James A. Harris, President of the National Education Association, which represents 1.7 million professional teachers, each of whom comes into frequent, if not daily, contact, with youth who have serious learning disabilities because of one or more emotional, physical, or mental handicap(s). We are extremely pleased that this Subcommittee is again designing legislation to deal with an area that is replete with neglect and in some instances a total disregard for the basic needs of handicapped youth. There are some 7.8 million youth in this country with handicapping conditions, half of whom are not being provided a basic educational program that meets their needs.

A recent survey conducted by HEW reveals that the information necessary for a determination of the excess cost of educating handicapped children does not currently exist at either federal or state levels because: (1) no state had access to information for all the requested categories; (2) the information obtained is relatively useless for comparison between states because reporting categories and definitions vary widely between states and common accounting procedures are not currently in use; (3) the nine states surveyed estimated that between 4.7 and 17.6 percent of their school-aged population required special education due to a handicapping condition; (4) new laws in several states (Maryland, North Carolina, and Massachusetts) may make it impossible to report information by traditional disabilities and considerably broaden the population of children eligible for special education. The state of the art of distributing funds on the basis of excess cost for handicapped youth is presently in a stage of incomplete metamorphosis.

We urge the Subcommittee to move legislation as expeditiously as possible through the legislative process. The handicapped youth of our affluent society should not be made to suffer the extreme pains of despair and educational neglect due to counterproductive political hang-ups.

In the event Congress does not approve legislation within a reasonable amount of time, we then suggest that the "Randolph Amendment," S. 1264, which extends for two years the so-called "Mathias Amendment" to the "Education Amendments of 1974", Title VI-B, Education of the Handicapped Act, be approved.

Should Congress grant the requested two-year extension of the "Randolph Amendment" to the "Mathias Amendment" with an authorization of $680 million, we sincerely hope that the appropriations process does not lag too far behind in dealing with the educational needs of approximately eight million handicapped youngsters in this country of great wealth and compassionate people.

We agree with the language of S. 6 that stipulates that each state application must set forth effective procedures for acquiring and disseminating to teachers and administrators of programs for handicapped children significant information derived from educational research, demonstration, and similar projects, and for adopting, where appropriate, promising educational practices developed through such projects.

We recommend that language be included in S. 6 that encourages non-profit organizations whose constitutuents possess skills and techniques of imparting information to initiate dissemination of educational activities as described above in conjunction with local and state education agencies and other public institutions. We further recommend that the National Institute of Education set aside appropriate funds to conduct research and disseminate information to state and local education agencies regarding educational research, demonstration projects, and promising teaching practices for the educationally handicapped.

We agree that 1978 should be established as a target date by which each state must include all handicapped youth in an appropriate program that encompasses their need differences in terms of professionally trained personnel, equipment, materials, and other basic resources.

NEA has a long-standing policy which precludes our endorsement of the use of public funds for non-public education purposes.

We are pleased that language is included that guarantees procedural safeguards in decisions regarding identification, evaluation, and educational placement of handicapped children as well as providing for due process, hearing and examining all relevant records with respect to the above listed processes. We are also especially pleased with language insuring that testing and evaluation materials and procedures utilized for the purpose of evaluation and placement of handicapped children will be selected and administered so as not to be racially or culturally discriminatory.

We feel that the Chief State School Officer should appoint the members of the State Planning and Advisory Panel instead of the Governor, because language of the bill gives to the State Planning and Advisory Panel the responsibility of notifying the Chief State School Officer when it finds that there has been substantial failure on the part of either the state or the local education agency to carry out the requirements of any provision of this act. We also want to raise the question as to what constitutes a substantial failure in the preceding statement. In order to assure continuity of membership on and uniformity of enforcement by the panel, we suggest that standard procedures be included as a part of the language of this act.

We feel that ultimate enforcement should rest with an agency of the federal government in order to assure a high degree of compliance.

In the matter of program design of individulized written education programs at the local agency level, we suggest that any such plans evolve as a result of informal discussions among parents, students, teachers, and other appropriate school personnel. We feel that the term "mutual agreement" smacks too much of a formal contractual arrangement.

As for state plans as per section 613(b), we feel that state and local agencies that are sparsely populated and have great distances between schools might have an insurmountable burden in trying to provide educational services for handicapped youth unless some kind of an accommodation is designed to remedy this situation such as regional resource centers for the handicapped established and maintained by the state, or several local agencies pooling resources and providing education services for the handicapped. It might also be of help if handicapped individuals were categorized in terms of the kinds of handicapping conditions and their severity. The state and local agencies could then use these data as a basis for determining which agency would take the responsibility for providing educational services for each category.

We also suggest that language be included in this legislation that establishes a comprehensive system of career education for handicapped with emphasis on counseling and guidance beginning in the elementary grades continuing through job-placement and on the job follow-up in terms of growth and development as exhibited in promotions, advancement, and the obtainment of career status. Such a career ladder approach must accentuate the positive talents of these handicapped individuals and prepare them for more meaningful and productive roles as tax-paying citizens. We suggest, where appropriate, that this provision, if enacted as a part of S. 6, be utilized in conjunction with the appropriate provisions of the Vocational Rehabilitation Act, the Vocational Education Act, Elementary and Secondary Education Act, and other federal legislation that applies.

We also want to congratulate the Subcommittee for its recognition of the need for affirmative action language. We suggest, however, that language be included that requires the filing of an affirmative action program annually with the Commissioner and the Equal Employment Opportunity Commission. We also insist that federal legislation comply with civil rights statutes, be consistent with the constitutional provision respecting the establishment of religion, and provide for judicial review as to its constitutionality.

We think that S. 6 is a comprehensive bill that will begin to provide educational programs for the four million handicapped being served and extend these programs in scope for the approximately eight million handicapped individuals whose educational needs are basically unmet.

The NEA congratulates the Subcommittee for its extraordinary effort on the "Education for All Handicapped Children Act" on behalf of handicapped individuals.

We thank the Subcommittee for inviting the NEA to testify.

STATEMENT OF

THE NATIONAL EASTER SEAL SOCIETY FOR CRIPPLED CHILDREN AND ADULTS

BEFORE THE

SUBCOMMITTEE ON THE HANDICAPPED

SENATE COMMITTEE ON LABOR AND PUBLIC WELFARE

May 6, 1975

The National Easter Seal Society for Crippled Children and Adults wishes to express its support of S.6 and S.1264. These bills which concern the Education for the Handicapped Act would provide more adequate financial assistance to States than under the 1976 authorizations.

S.6 sets forth a series of conditions States must meet in order to be eligible for such entitlements, and S.1264 increases the authorizations for appropriations for grants to States to promote and stimulate education programs for the handicapped. We believe both of these measures would promote advancement towards the goal of providing every child, impaired physically or mentally, with an appropriate type of free education.

Because of our Society's pioneer efforts and major role in promoting legislation and programs to eliminate architectural barriers, we are particularly gratified to note the inclusion of a new section in S.6 to pay States part of all of the costs of altering existing school buildings and equipment to make them accessible to and usable by handicapped children. There is ample evidence that many handicapped children are excluded from schools solely on the basis of physical obstacles.

The need for changes in the Education for the Handicapped Act has been forcefully and dramatically documented in prior reports to the Senate by the Committee on Labor and Public Welfare and in the public hearings it has held. The Council for Exceptional Children's compilation of the State laws and legal mandates relating to the education of handicapped children and the status of State education programs provide the substantive basis and indicate the urgency for passage of these measures.

The National Easter Seal Society for Crippled Children and Adults has a long history of concern for the education of handicapped children. It is a matter of record that our organization is responsible for promoting special education laws in many States, for underwriting the salaries of special education personnel in State departments of education, for pioneering special education classes, for establishing education for homebound children and for promoting the recruitment and training of special education teachers. Our interest has continued to this day.

Currently we are serving over 6,002 handicapped children in 92 communities, primarily in preschool programs. Although we serve mainly children with orthopaedic and neurological disorders in these programs, we admit a substantial number of children with learning disabilities, emotional problems and multi-handicapping conditions including mental retardation. Our services go beyond cognitive learning as handicapped children require a wide range of physical restorative services such as physical therapy, occupational therapy and speech and hearing services. While our programs are designed for the child primarily, they also include parent education and parent involvement. We can testify to the rewards resulting from preparing these children for entry into regular and special classes in the public school system.

In reviewing the bills, we note that emphasis has been placed on the responsibility of the State and local education agencies in assuring educational services to handicapped children and rightly so, as education has always been a public responsibility. But we are disturbed by the failure of S.6 to make explicit the utilization of education resources of voluntary agencies by the public school system. There are situations in which an appropriate education may only be available through the programs of non-profit organizations. Voluntary agencies have served handicapped children for the past 30 or 40 years and have the expertise and facilities that many public school systems presently lack. These resources represent an important alternative to providing education through the public school system. Wilbur Cohan, recognized as a leader in administrative planning in HEW, has stated that: "one of the areas that voluntary agencies can and should make a real contribution is in the education of very young children".

Federal courts have mandated that every child must be given a free education. In New York and Colorado the Commissioners of Education have interpreted the Federal court's decision to mean that the education must be provided in the public school system. We believe it was the intent of the Federal court to guarantee an education to the unserved and that it was not their intent to eliminate the voluntary agencies as a resource. The partnership which has existed between many public school systems and voluntary agencies serving the handicapped should be continued.

When Senator Williams presented S.6 to the Senate on January 15, 1975, he stated: "I believe that it is time for us to also be very clear about the primary responsibility that the States have in carrying out and assuring to each child within their State, the guarantees of the Constitution". The word "assuring" does not necessarily mean that education must be provided only through the public school system. There is need for clarification of the role of voluntary agencies as an alternative means of providing educational services to the physically handicapped.

We support S. 1264 which would increase the authorization ceiling for 1976 and 1977 to $665 million. Many States are unable to fund expanded education services through State taxes as their revenue has decreased as a result of unemployment. Increased costs of public assistance and Medicaid has added to their financial difficulties. In many local communities the property tax has reached a level beyond which it will be difficult to go - yet the needs of public schools are very real.

We appreciate the opportunity to present our concerns on behalf of the physically handicapped.

5/6/75

National Congress of Organizations of the Physically Handicapped

Statement on behalf of

NATIONAL CONGRESS OF ORGANIZATIONS OF THE PHYSICALLY HANDICAPPED

on

Education of the Handicapped Legislation

S.6, S.1256, and S.1264

before the

Subcommittee on the Handicapped
Committee on Labor and Public Welfare
United States Senate

Submitted in writing: April 21, 1975

Prepared by:

Mrs. Frances H. Lowder, Chairperson
NATIONAL CONGRESS OF ORGANIZATIONS OF
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"Opportunities, with Dignity"

The National Congress of Organizations of the Physically Handicapped is pleased to have the opportunity to comment to the Sub-Committee on the Handicapped of the Senate Committee on Labor and Public Welfare on S.6, S.1256, and S.1264.

The NCOPH is a national coalition, organized in 1958, of member clubs and organizations of self-help groups of adults who are physically handicapped, with representation in all of the States in the U.S. Current membership includes more than 45 organizations (some with numerous chapters) representing approximately 200,000 adult persons who have some type of physical disability. The membership of COPH is highly interested in the implementation of this legislation to provide additional educational opportunities for handicapped vhildren, for many of us know from first-hand experiences of the insurmountable problems of the past faced by such children, their parents, and numerous others in the advocacy role concerned with them and their needs. We are most hopeful relative to this legislation that it will play a significant part in ending the frustrations and unrewarding experiences handicapped children have had for too many years!

The Sub-Committees consideration of the 3 bills referred to is moving in a progressive direction to assure equal opportunity to all handicapped children for appropriate education and training services. Retaining 1978 as the target for full implementation of the legislation should provide a strong impetus in assuring that every effort will be made to meet the mandate,

There appears to be widespread concern that the level of appropriations being considered is inadequate to permit school districts to provide for the needs of a large number of severely handicapped children as soon as 1978 or even by 1980 or later. During the phase-in period, budget allocations for administrative and Special Resource personnel must be controlled in some way to secure the utilization of the majority of the funds for classroom teachers and other necessary para-professional personnel. We believe there is practicality in contracting with private agencies operating Developmental Programs for those identified children 0-5, including the sharing of funds for qualified personnel, utilizing some existing facility, equipment and personnel resource. Some private organizations have pioneered developmental Day programs for a wide variety of young children as well as teen-agers with a wide range of handicapping conditions as well as variation in severity of limitations. Some of these programs have produced excellent results for severely handicapped children; however, such programs typically have been underfunded from voluntary sources, and of necessity have required payment of fees (where possible) on the part of parents. Cooperative contractual arrangements with the adequate private program centers for the very young (0-5) could have excellent advantages in the first years of the phase-in process, to assure provision of services at lower cost factors, which arrangement should be assistive in managing within budget restrictions on the part of the Federal, State and Local governmental bodies.

Integrating children with handicaps into regular classrooms and utilizing resource room teaching for specific learning problems will, we hope, begin to minimize the need for labelling and categorizing children into various sub-groups related to disability diagnosis.

The requirement for individualized programs for each child is excellent.

Securing parent agreement is quite important to the development of the child's maximum potential. For many reasons, in some cases, some parents may need a great deal of assistance in determining a course of action or agreeing on a program placement that would be determined to benefit their handicapped child. In severe situations, some mechanism focused on the needs of the child needs to be available to assure that existing services can be provided to children, even if there is parental objection. Early intervention into some situations on behalf of some handicapped children could allow for remediation of detriments to education and learning in the pre-school years.

We have some concerns about the declining quality of the Head Start programs in some sections of the country, and particularly as they might relate to compounding the problems of some handicapped children enrolled therein. Unless there is maintained some structure, and standard of performance, including qualified professional direction and management, it is quite possible these programs should be abolished and the funds being used for them provided to local school systems to develop early educational programs for high-risk, special need children.

Development of regional resources is a must for low-frequency severe disability children, such as autism. multiple handicaps, deaf-blind impaired in order that these children can be served and remain as near their home communities as possible. At the moment, we believe there is a severe shortage of trained personnel. If no appropriate school program exists, some of these children may remain out of school as result of parent choice, rather than accepting an inappropriate placement.

We are conconcerned that NONE of the appropriations under consideration are ear-marked for remodeling of school buildings to give them barrier-free design so that physically handicapped students can have freedom of mobility to the extent their individual progress warrants. This seems to be an essential area for attention, whether the children use wheel chairs, walkers, or are ambulatory with braces, or other types of equipment or appliances. Inaccessible facilities, and lack of special transportation means has been a major problem in the past in providing for the education of thousands of students who are handicapped. A few segregated schools, lumping all those labelled "handicapped" together in especially designed facilities are not the answer.

Behavior modification and attitude influence courses of instruction for classroom teachers should be operative NOW to assure favorable rapport and a normal learning environment for all children. We are especially concerned about the attitudes of classroom teachers who are already in teaching positions nationwide. A formalized plan, ongoing in nature should be underway at present to develop appropriate sensitivity and attitudinal reform on the part of many classroom instructors, who have no particular background in any of the tenets that might be linked with "special" education and the needs of the students. Administators and Resource Specialists, such as Speech Clinicians, Psychologists, School Social Workers, Rehab Counsellors, etc. have begun to consider basic planning for comprehensive education of handicapped children, even those with severe disabilities, but the handicapped children's opportunities will be limited by attitudinal barriers, and the possibility of an "unwelcome" attitude in regular classrooms, if some course or periodic workshops, etc. are not instituted soon, for existing classroom teachers who need basic orientation to the challenge presented by expanding educational opportunities for handicapped children within the regularly established school settings.

The weighted formula factor for individual handicapped students seems more equitable than the former payment of a per centage of the excess costs. Also, we have noted that some excess costs are created in one way or another. In smaller population areas, for example, where children are classified as TNR and sent to a segregated school, all the facility costs are inflated because of the small number of children in the building. Teacher and para-professional salaries would be the same if such programs were transferred to an elementary school building housing regular classes and school children. TMR children could eat lunch in the same cafeteria utilized by others in the school, use the same restrooms, the music room, the playground equipment, shop and home ec or living center equiment and facility space on a shared time basis with other school students, and with increased numbers using special equipment resource, etc., the excess costs would be less.

Handicapped children enrolled in parochial schools should also be able to receive special education services, including transportation, resource expertise, special text materials, etc.

In conclusion, we urge affirmative action in employment practices in considering qualified teachers, para-professionals, resource Specialists etc. who may be handicapped, such as blind, paralyzed, deaf, etc. in staffing school systems, State Education Agencies, etc. We commend the Sub-Committee for their continuing efforts to enhance the education opportunities for the handicapped, as well as the entire student population.

UNITED STATES GENERAL ACCOUNTING OFFICE

REPORT TO THE CONGRESS

Federal Programs For Education Of The Handicapped: Issues And Problems

B-164031(1)

Department of Health, Education, and Welfare

BY THE COMPTROLLER GENERAL
OF THE UNITED STATES

DEC. 5, 1974

This report is sent to you because of your indicated interest in the work of the U.S. General Accounting Office.

It is one of many reports sent by the Comptroller General of the United States to the Congress in recent months. Additional copies are available on request for student use.

Assistant Comptroller General
Policy and Program Planning
U.S. General Accounting Office
441 G St. NW.
Washington, D.C. 20548

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-164031(1)

To the Speaker of the House of Representatives
and the President pro tempore of the Senate

This is our report on Federal programs for the education of the handicapped. The programs are administered by the Office of Education and the Social and Rehabilitation Service, Department of Health, Education, and Welfare.

We made our review pursuant to the Budget and Accounting Act, 1921 (31 U.S.C. 53), and the Accounting and Auditing Act of 1950 (31 U.S.C. 67).

We are sending copies of this report to the Director, Office of Management and Budget, and to the Secretary of Health, Education, and Welfare.

Elmer B. Staats
Comptroller General
of the United States

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ABBREVIATIONS

GAO	General Accounting Office
HEW	Department of Health, Education, and Welfare
OE	Office of Education
SRS	Social and Rehabilitation Service

COMPTROLLER GENERAL'S
REPORT TO THE CONGRESS

FEDERAL PROGRAMS FOR EDUCATION
OF THE HANDICAPPED:
ISSUES AND PROBLEMS
Department of Health,
Education, and Welfare
B-164031(1)

DIGEST

WHY THE REVIEW WAS MADE

Congressional concern over the responsiveness of Federal programs in meeting educational needs of the handicapped led GAO to review the Department of Health, Education, and Welfare's (HEW's) major programs. These included special education, vocational education, and vocational rehabilitation programs.

FINDINGS AND CONCLUSIONS

Basic situation

HEW estimates that more than 2 million handicapped individuals have been afforded education and rehabilitation opportunities in the last 5 years. Despite this growth, approximately 60 percent of the estimated 7 million handicapped children in the United States do not receive appropriate educational services enabling them to have equality of opportunity.

One million are excluded entirely from the public school system, and during the 1971-72 school year only 16 States provided special educational services to more than 50 percent of their estimated school-aged handicapped population.

Vocational education and rehabilitation programs are essential components in providing comprehensive educational services to the handicapped. Educators feel that 75 percent of the physically disabled and 90 percent of the mentally retarded could work if given the proper education and training. Few of the handicapped, however, are employed today and billions of dollars are spent annually to support the dependent handicapped.

Concern for educational needs of the handicapped has resulted in a number of new programs during the past few years.

Although about 90 percent of the cost of educating the handicapped is funded with State and local money, Federal funds increased from a negligible amount in fiscal year 1966 to several hundred million dollars in fiscal year 1973. These programs are administered by at least 14 separate organizational units in HEW.

Barriers

Numerous barriers confront the handicapped, severely hampering and often keeping them from receiving necessary education and training.

Few locations in the Nation provide a full range of educational services comprehensive and flexible enough to meet the needs of all handicapped children. In many instances appropriate educational services are not

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provided because the delivery system for special education is fragmented and uncoordinated.

Severe gaps exist in the educational services available. Limited availability of educational programs and restrictive eligibility requirements often keep handicapped individuals from progressing sequentially through a special educational program. Instead of becoming self-sufficient many remain dependent on society.

Although Federal programs have helped the handicapped, they have not effectively assisted in the removal of these barriers. Improving the programs' effectiveness will require increased emphasis on planning, allocation of funds to areas of greatest need and benefit, and program evaluation.

GAO did not review the adequacy of funding for the programs; however, it recognizes that more Federal, State, and/or local funds will probably be needed to serve all handicapped individuals. (See p. 13.)

Planning for services

Establishment of many separate Federal programs for assisting the handicapped intensified the need for coordinated planning among Federal agencies. There has been little systematic effort, however, among agencies to coordinate planning to help insure more comprehensive provision of services.

Programs for special education remain fragmented and scattered across a variety of administrative units, each operating without knowledge of what the others are doing--where they are putting their resources and to what extent specific needs are being met. Similar situations are evident at State and local levels.

Lack of reliable data about the handicapped, such as the types, severity, and location, contributes to planning weaknesses. (See p. 24.)

Allocation of funds

Because Federal funds for educating and training the handicapped are not allocated on the basis of priorities established for meeting the greatest educational needs, program managers lack assurance that

--handicapped children are provided an equal opportunity for educational assistance,

--funds are targeted to program objectives, and

--the impact of Federal programs is maximized.

A large portion of the Federal funds is allocated to States according to fixed formulas containing factors which may actually result in inequities in the opportunities available.

The Education Amendments of 1974 (Public Law 93-380) amended part B of the Education of the Handicapped Act to require that starting with fiscal year 1976, funds be made available to States only after they submit an amendment to the required State plan which shows in detail the policies and procedures which the State will undertake in order to insure the education of all handicapped children and insure that all handicapped children in the State in need of special education are identified and evaluated. The amended State plan must also establish a detailed timetable for providing full educational opportunity for all handicapped children. Other programs for the education and training of the handicapped discussed in this report do not contain a similar requirement.

States have used various methods and criteria for distributing Federal funds but have made little effort to identify needs as a basis for allocating the funds. As a result, Federal agencies do not have assurance that funds have been targeted to areas of highest need.

Federal funds are intended by the Office of Education for use as a catalyst to initiate and expand special education programs. Although some federally funded projects have been duplicated by State and local agencies, those projects that best produce catalytic effects have not been identified for allocation of funds. (See p. 39.)

Evaluation

Evaluation systems of Federal, State, and local agencies responsible for administering federally supported education programs for the handicapped have not provided information essential for effective program management.

For example, rather than providing information on quality or degree of success, data collected on programs and projects has centered on statistics, such as numbers of children receiving educational services and dollars spent. Little information on program results has been provided.

As a result, Federal, State, and local program managers cannot always

--detect ineffective programs and projects.

--redirect existing programs or plan for more effective programs, or

--synopsize and disseminate results of effective programs and projects to help other educators and administrators. (See p. 52.)

RECOMMENDATIONS

HEW should implement procedures for systematic planning among organizations responsible for educating and training the handicapped.

A comprehensive plan should be developed with each organization's responsibility clearly defined. The plan should provide for

--systematic collection of data about the handicapped (see p. 37),

--development of a system for assisting the States to identify and establish priorities for the full range of comprehensive educational needs of the handicapped (see p. 49),

--establishment of effective program and project monitoring and evaluation systems wherein results are measured against objectives (see p. 59), and

--establishment of procedures to redirect programs on the basis of effectiveness evaluations (see p. 59).

Other recommendations related to these areas are discussed on pages 50 and 59.

AGENCY ACTIONS AND UNRESOLVED ISSUES

HEW concurred with GAO's recommendations and described actions taken or planned to implement them.

MATTERS FOR CONSIDERATION BY THE CONGRESS

The Congress should consider

--amending pertinent legislation which earmarks funds for the education of the handicapped in a manner similar to the recent amendments to part B of the Education of the Handicapped Act which require the establishment of detailed plans for undertaking a comprehensive needs assessment in order to receive funds.

--eliminating those formula allocation factors in authorizing legislation which may result in inequities in the opportunities available to the handicapped. (See p. 50.)

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HEW agreed on the importance of having needs assessments but thought that withholding funds to achieve this would be too harsh a penalty and suggested that the Congress consider building into the law positive incentives for States to adopt such assessments. HEW's comments, however, were made before enactment of the August 1974 revisions to part B of the Education of the Handicapped Act which require that funds be made available to States only after they have established the necessary policies and procedures to make a comprehensive needs assessment.

HEW, on commenting on GAO's recommendation to eliminate those formula allocation factors in the legislation which may result in unequal opportunities available to the handicapped, suggested that modifications of the State allocation formula under the Rehabilitation Act of 1973 should be deferred until the findings of a Rehabilitation Services Administration study on this formula are available. GAO believes that the study data will be useful to the Congress in considering its recommendation.

CHAPTER 1

INTRODUCTION

An estimated 7 million children in the United States have mental, physical, emotional, or learning handicaps that require some special educational services. Only an estimated 40 percent (or 2.8 million) of these children are receiving the education they need. One million are excluded entirely from the public school system, and during the 1971-72 school year only 16 States provided special educational services to more than 50 percent of their estimated school-aged handicapped population.

The Commissioner of Education stated in his fiscal year 1971 annual report to the Congress that money spent in providing equal educational opportunity for the handicapped has proven to be a good investment--not only in terms of providing the handicapped the opportunity for work as human beings but also in meeting various manpower needs in the Nation.

Vocational education and rehabilitation programs are essential components in the provision of comprehensive educational services to the handicapped. Educators feel that 75 percent of the physically disabled and 90 percent of the mentally retarded could work, either in the competitive job market or in a sheltered workshop,[1] if given the proper education and training. However, the Office of Education (OE) estimates that only 23 percent of the handicapped children leaving school will be fully employed, go on to college, or participate in a sheltered workshop. Several billion dollars are spent annually for supporting the handicapped dependent on society.

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[1] Provides supervised employment, work experience, and/or vocational training for handicapped individuals who are usually too severely handicapped to work in the competitive job market.

One of the few available benefit-cost analyses of the vocational rehabilitation program showed that 170,000 disabled persons were rehabilitated in fiscal year 1967.1/ The analysis estimated increased lifetime earnings at about $4.7 billion, or a return of about $8 for each dollar spent on rehabilitating these individuals. Taxpayers share substantially in these returns through increased taxes paid by the rehabilitants and the reduction in tax-supported payments for their maintenance.

WHO IS RESPONSIBLE FOR EDUCATING THE HANDICAPPED?

The Congress has recognized that all levels of government must develop opportunities for the handicapped and has expressed that the Federal Government shall work jointly with the States and their citizens to develop recommendations and plans of action which will

--provide educational, health, and diagnostic services for all children early in life,

--insure that every handicapped person receives an education appropriate to his needs,

--insure that the handicapped have the special services and assistance they need to live full and productive lives,

--examine changes that technological innovation will make in the problems confronting the handicapped,

--insure that handicapped persons have equal opportunity to engage in gainful employment,

--increase research on all aspects of all types of handicaps,

--insure close attention to and evaluation of all aspects of diagnosis, evaluation, and classification of handicapped individuals, and

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1/Ronald Conley, "A Benefit-Cost Analysis of the Vocational Rehabilitation Program," *The Journal of Human Resources*, Spring 1969, p. 226.

- Insure review and evaluation of all Federal programs for the handicapped and close examination of the Federal role.

WHAT IS THE FEDERAL INVOLVEMENT?

On several occasions the Congress has expressed concern and interest in insuring that all handicapped persons live as independently and self-reliantly as possible and that complete integration into normal community life, work, and service patterns is held as the final objective.

The Senate Committee on Labor and Public Welfare reported in August 1972 (S. Rept. 92-1080) that the benefits and rights of society are often denied those who are mentally and physically handicapped. The Committee emphasized that equal opportunity, equal access to all aspects of society, and equal rights of the handicapped were critically important to the Nation.

Concern for the educational needs of the physically and mentally handicapped has resulted in considerable activity over the past few years. Although about 90 percent of the cost of educating the handicapped is funded with State and local money, Federal funds increased from a negligible amount in fiscal year 1966 to several hundred million dollars in fiscal year 1973. Little aid is given directly to the handicapped individual; most of it goes through a State agency, or institution of higher learning, or a local educational agency.

The assortment of institutions providing some type of service to the handicapped is so large and complex that it is difficult to describe the system. A 1973 study funded by the Department of Health, Education, and Welfare (HEW) identified over 50 major Federal programs providing some type of service to handicapped youth. Although these programs exist literally everywhere in the Federal Government, most are administered by HEW.

We developed the chart on the following page to show the myriad of education and training programs administered by 14 organizational units in HEW. These organizations administer programs which provide, either directly or indirectly to the handicapped, an educational service, including classroom education, teacher education, educational research, vocational education, and vocational rehabilitation related to educational counseling and training. HEW programs providing services related to the health and welfare of the handicapped rather than their education and training are not included in the chart.

Educational commitment

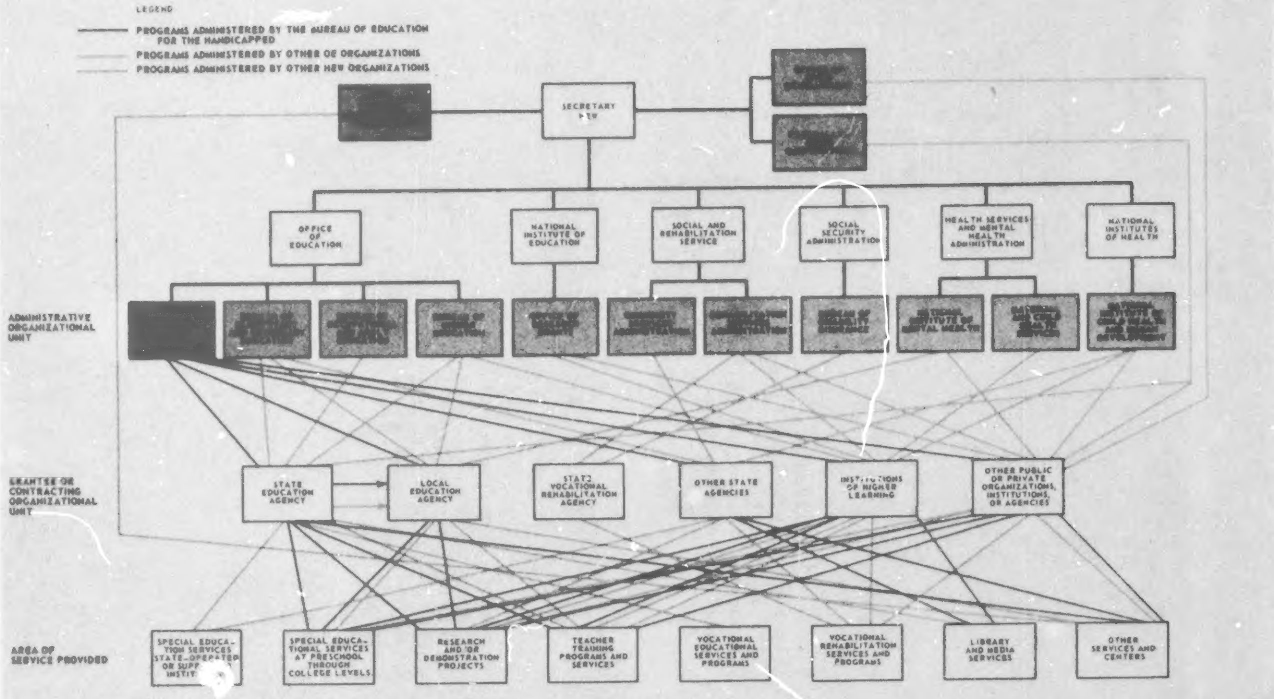
The basic goal of the Federal effort in education for the handicapped is to assist States to provide for equality in public education. To further this goal, the Bureau for Education of the Handicapped has promoted a national commitment to insure that all handicapped children receive special education to enable them to develop their potential and thereby reduce their degree of dependency.

The commitment is not total in the sense of providing complete educational support. Instead, the Federal programs have been designed to act primarily as catalysts to bring about changes in educational patterns by initiating demonstration and model programs and by encouraging new techniques and practices. This approach was developed specifically to use the limited Federal financial resources and manpower to effect significant changes in the quality and effectiveness of much larger and more direct programs being conducted by State and local educational agencies.

HEW administers most of the Federal programs for educating and training the handicapped. The following list identifies several of the major programs in effect during our review.

Agency	Program	Purpose
Office of Education: Bureau of Education for the Handicapped	Education of the Handicapped Act (20 U.S.C. 1401):	
	Part B	To strengthen educational and related services for preschool, elementary, and secondary school children.
	Part C	To develop centers for educational diagnosis and remediation of handicapped children; to develop centers and services for deaf-

EDUCATIONAL RELATED PROGRAMS FOR THE HANDICAPPED PROVIDED BY SELECTED AGENCIES WITHIN HEW*


LEGEND
PROGRAMS ADMINISTERED BY THE BUREAU OF EDUCATION FOR THE HANDICAPPED
PROGRAMS ADMINISTERED BY OTHER OE ORGANIZATIONS
PROGRAMS ADMINISTERED BY OTHER HEW ORGANIZATIONS
SECRETARY HEW
OFFICE OF EDUCATION
NATIONAL INSTITUTE OF EDUCATION
SOCIAL AND REHABILITATION SERVICE
SOCIAL SECURITY ADMINISTRATION
HEALTH SERVICES AND MENTAL HEALTH ADMINISTRATION
NATIONAL INSTITUTES OF HEALTH
BUREAU OF DISABILITY INSURANCE
NATIONAL INSTITUTE OF MENTAL HEALTH
ADMINISTRATIVE ORGANIZATIONAL UNIT
GRANTEE OR CONTRACTING ORGANIZATIONAL UNIT
STATE EDUCATION AGENCY
LOCAL EDUCATION AGENCY
STATE VOCATIONAL REHABILITATION AGENCY
OTHER STATE AGENCIES
INSTITUTIONS OF HIGHER LEARNING
OTHER PUBLIC OR PRIVATE ORGANIZATIONS, INSTITUTIONS, OR AGENCIES
AREA OF SERVICE PROVIDED
SPECIAL EDUCATION SERVICES STATE-OPERATED OR SUPPORTED INSTITUTIONS
SPECIAL EDUCATIONAL SERVICES AT PRESCHOOL THROUGH COLLEGE LEVELS
RESEARCH AND/OR DEMONSTRATION PROJECTS
TEACHER TRAINING PROGRAMS AND SERVICES
VOCATIONAL EDUCATIONAL SERVICES AND PROGRAMS
VOCATIONAL REHABILITATION SERVICES AND PROGRAMS
LIBRARY AND MEDIA SERVICES
OTHER SERVICES AND CENTERS

* PROGRAMS WHICH INVOLVE SMALL EXPENDITURES AND WHICH AFFECT FEW HANDICAPPED INDIVIDUALS ARE NOT INCLUDED IN THE CHART.

		blind children and parents; to develop model preschool and early education programs.
	Part D	To recruit and train personnel; to disseminate educational information.
	Part E	To support research and related activities.
	Part F	To support media services and the caption film loan program.
	Part G	To establish and operate model centers for children with specific learning disabilities.
Bureau of Elementary and Secondary Education	Elementary and Secondary Education Act Public Law 89-313, Amendment to title I (20 U.S.C. 241c)	To strengthen educational programs for handicapped children in State-operated and State-supported schools.
	title III (20 U.S.C. 841)	To provide grants for supplementary, innovative, exemplary projects for the handicapped.
Bureau of Occupational and Adult Education	Vocational Education Act of 1963, as amended (20 U.S.C. 1241): Part B	To provide vocational education for the handicapped.
Social and Rehabilitation Service:		

Rehabilitation Services Administration	Vocational Rehabilitation Act (29 U.S.C. 31): Section 2a 1/	To provide rehabilitation to people whose handicap serves as a barrier to employment.

This report deals with the major programs administered by HEW organizations directly responsible for educating and training the handicapped--the Bureau of Education for the Handicapped, the Bureau of Elementary and Secondary Education,2/ the Bureau of Occupational and Adult Education of OE, and the Rehabilitation Services Administration of the Social and Rehabilitation Service (SRS). The programs we reviewed are administered mainly to benefit children and youth although some programs are available for handicapped adults. We did not review all programs for the handicapped or programs that are indirectly related to educating and training the handicapped.

Bureau of Education for the Handicapped

In 1966 the Congress authorized establishment of this Bureau to consolidate all programs of education for the handicapped administered by the Commissioner of Education. This consolidation was made primarily because of congressional dissatisfaction with the prior efforts of OE to serve handicapped children.

The Bureau administers all education, teacher-training, and research programs for handicapped children and youth authorized under the Education of the Handicapped Act. The Bureau also administers a program of aid to State-supported and State-operated schools for the handicapped authorized under title I, Elementary and Secondary Education Act.

1/This program was substantially reenacted by title I, part B of the Rehabilitation Act of 1973 (29 U.S.C. 701).

2/On January 20, 1974, OE reorganized and the Bureau of Elementary and Secondary Education was renamed the Bureau of School Systems.

The major objectives of the Bureau are:

--To insure the enrollment by 1978 of 85 percent of the 1 million preschool-aged handicapped children in Federal, State, and locally funded educational day care programs.

--To insure that every handicapped child is receiving an appropriately designed education by 1980 (85 percent by 1978).

--To insure that by 1977 every handicapped child who leaves school has had career educational training that is relevant to the job market, meaningful to his career aspirations, and realistic to his potential.

--To insure that all handicapped children served in the schools have sufficient trained personnel competent in the skills required to aid each child in reaching his potential.

--To enable the most severely handicapped children and youth to become as independent as possible and thereby reduce their requirements for institutional care and provide an opportunity for self-development.

Bureau of Elementary and Secondary Education

The Bureau administers title III of the Elementary and Secondary Education Act of 1965. Grants are made to local educational agencies for supplementary educational centers and services. The law provides that not less than 15 percent of the funds be used for handicapped children.

The Bureau also has fiscal responsibility for the program of aid to State-supported and State-operated schools for the handicapped because it is authorized under the Elementary and Secondary Education Act of 1965.

Bureau of Occupational and Adult Education

One of the objectives of the Vocational Education Amendments of 1968 is to assist States in providing meaningful vocational education to individuals whose handicaps prevent them from succeeding in regular vocational education programs. Disenchantment with the limited vocational education funds made available to assist the handicapped led the Congress to require that 10 percent of each State's authorized allotment under part B of the act be set aside for programs for the handicapped. OE's Bureau of Occupational and Adult Education administers this assistance provided to the States.

Rehabilitation Services Administration

The Rehabilitation Act of 1973 authorizes assistance to States for use in rehabilitating and preparing the handicapped for gainful employment. The act is administered by the Rehabilitation Services Administration of SRS. Vocational rehabilitation includes such educational services for the handicapped as career counseling and training in elementary and secondary schools, vocational schools, colleges and universities, business schools, and sheltered workshops.

Federal funding for the handicapped

Funding for major Federal programs for educating and training the handicapped totaled about $1.5 billion during fiscal years 1970-73, as follows:

Organization	Fiscal year 1970	1971	1972	1973	Total
		(millions)			
Bureau of Education for the Handicapped	$ 84.6	$107.9	$119.7	$158.9	$ 471.1
Bureau of Elementary and Secondary Education	54.9	65.8	76.5	99.6	296.8
Bureau of Occupational and Adult Education	30.7	32.2	38.4	38.7	140.0
Rehabilitation Services Administration (note a)	110.4	146.9	170.6	177.5	605.4
Total	$280.6	$352.8	$405.2	$474.7	$1,513.3

a/Because the vocational rehabilitation programs' definition of the term "handicapped" differs from that used by OE, the training and education figures shown here include funds for services to some types of handicapped individuals not eligible for services under the OE programs.

WHO ARE THE HANDICAPPED?

An estimated 46 million or more Americans are handicapped according to the Council for Exceptional Children. Public policymakers continually question the incidence of handicapped children so that programs requiring public resources can be planned. There are an estimated 7 million handicapped children in the Nation, although this figure is subject to considerable variation because of poor or nonexistent data as well as varying definitions of the word "handicapped."

Despite the limitations in data gathering, OE estimates that 10 percent of the school-age population is handicapped. This primarily includes children who are mentally retarded; emotionally disturbed; visual, hearing, and speech impaired; or otherwise physically handicapped and require special education and related services.

SCOPE OF REVIEW

Our review was made at HEW headquarters, Washington, D.C., and at State, regional, and local levels of administration for education, vocational education, and rehabilitation programs in Connecticut, Missouri, North Carolina, Oklahoma, and Washington. We examined legislation, regulations, OE and SRS program policies and directives, project applications, reports, and related documents. We also discussed program activities with personnel at these levels and visited a number of education projects for the handicapped.

The five States represented various types of services to educate and train the handicapped. They were chosen after analyzing data concerned with (1) the level of funding for the programs in each of the States, (2) the estimated number and percentages of served and unserved school-aged handicapped individuals, and (3) the number and type of programs in each State.

CHAPTER 2

BARRIERS IN EDUCATING THE HANDICAPPED

HEW estimates that more than 2 million handicapped individuals have been afforded education and rehabilitation opportunities in the last 5 years. Despite this growth, few locations in the Nation provide a full range of educational services to meet the needs of all handicapped children. Although Federal programs have helped the handicapped, numerous barriers still severely hamper and often keep the handicapped from receiving the education and training needed to maximize their social and economic capabilities. Further, the Bureau of Education for the Handicapped estimates that resulting support for handicapped persons who are dependent on society costs the Nation billions annually.

LIMITED AVAILABILITY OF EDUCATIONAL SERVICES

So that the handicapped can maximize their social and economic capabilities, educators believe it is critically important that they receive a full range of educational services to meet their individuals needs. Federal and State officials said that in many instances the handicapped are not provided these opportunities because the delivery system for special education is fragmented and uncoordinated. Severe gaps exist in the continuum of educational services available. Programs for some handicapped individuals are scattered and incomplete, while programs for others do not exist at all. This keeps many handicapped individuals from progressing sequentially through a special education curriculum, and instead of becoming self-sufficient, they remain dependent on society.

Preschool, career education, and vocational rehabilitation programs are elements often lacking from the educational opportunities available to the handicapped. Educational programs are also not available to some handicapped individuals who have been transferred from institutions to nursing homes not offering educational programs.

A State example

Special education classes in one State we visited were not generally available for the handicapped. In this State:

- --A majority of the 77 counties did not have school systems offering special education classes for most types of handicaps.
- --None of the counties had school systems offering a continuum of special education classes for all types of handicaps.
- --Only seven counties offered some type of special education in each of their several school districts and this was sometimes limited to one class for one type of handicap.
- --Four counties provided no special education classes for handicapped children.

In addition, even though some counties did not offer appropriate education programs, only a small number of handicapped individuals were transported to other counties which provided such programs.

Only the educable and trainable mentally retarded, the speech impaired, and children with learning disabilities 1/ were offered a semblance of a special education continuum in the State. Even then such opportunities were inadequate. Less than 50 percent of the estimated population up to age 21 in any of these categories are expected to receive special education during fiscal year 1973.

Although the trainable mentally retarded was proportionately one of the best served categories of the handicapped in the State, special education classes for these individuals were not available in 45 of the 77 counties during the 1972-73 school year.

1/Individuals having psychological disorders that prevent them from learning or functioning in a regular education program.

There was little evidence that preschool opportunities were being extended to these individuals, and vocational education programs for them were virtually nonexistent. Also the State's regulations generally exclude the trainable mentally retarded from vocational rehabilitation.

According to statistics provided by the State to the Bureau of Education for the Handicapped, about 71 percent of the estimated 18,000 children up to age 21 with learning disabilities in the State were not expected to receive any special education during the 1972-73 school year. Although we believe that the special education opportunities for the speech impaired, the trainable mentally retarded, and children with learning disabilities were inadequate, such children still appeared to have much better access to necessary services than most other handicapped children residing in the State. For example, there were approximately 17,000 emotionally disturbed youngsters up to age 21 in the State during the 1972-73 school year, but only 1 percent were expected to receive any special educational services during this period. Only seven counties provided special education classes for the emotionally disturbed, and three of the counties' programs were in institutions. Of the four counties which provided public school classes to these youngsters, only one offered classes beyond the elementary level.

Special education opportunities for the visually impaired, the deaf or hard-of-hearing, and the physically handicapped were also limited, with less than 10 percent expected to receive any special education programs during the 1972-73 school year.

A lack of available comparable data kept us from making direct comparisons of the education programs available among the States we visited. However, on the basis of our review of several HEW-financed studies and our observations during visits to several States, we believe that the gaps identified above are indicative of barriers faced by the handicapped in many States.

Need for preschool programs

Educators and personnel working with handicapped children have recognized the need for early identification of the handicapped. Research and experimental projects have repeatedly demonstrated the value of providing early educational opportunities. The Bureau of Education for the Handicapped established preschool education as one of its national objectives, and the Congress recognized the pressing need in passing legislation promoting early childhood education.

However, a gap still exists in special education available to many preschool handicapped children. In 1971 the Bureau estimated that only about 10 percent of an estimated 1 million preschool-aged handicapped children participated in any preschool program. In 1973 nearly half of the States did not provide any special education to children under 5 years of age and in most of the States we visited there were only a few programs.

Need for career education programs

The Congress has recognized that, for the handicapped to maximize their potential, it is imperative that they be provided career orientation and training early in life. Such training should continue until they enter the world of work because the handicapped generally require much longer to develop occupational skills and competencies than the normal child.

The concept of career education encompasses vocational orientation and training in the elementary grades as well as more specific occupational training during the junior high and secondary levels. It is to be accompanied by adequate postsecondary educational opportunities, job placement, and follow-up services responsive to an individual's abilities.

Despite the Bureau of Education for the Handicapped's priorities to stress career education and the congressional mandate to devote a portion of vocational education funds for programs for the handicapped, few handicapped individuals benefit from career education programs. A 1973 Bureau report observed that the vast majority of public and special schools lacked a coordinated curriculum which provided sequential development of vocational knowledges, skills, and attitudes for the handicapped. Also few facilities and staff were available to assess student ability to perform successfully in certain occupations or to modify work tasks so that they might be performed by the handicapped. The report concluded that some treatment and education programs were so inadequate that handicapped persons were made more, rather than less, dependent. The Bureau estimated that without career education approximately 37 percent of the 2.5 million handicapped youth leaving school during the period 1973-76 will be unemployed, on welfare, totally dependent, or otherwise idle much of the time.

The Deputy Associate Commissioner of the Bureau said about 95 percent of handicapped children in elementary programs were without prevocational services, and vocational education programs were not being coordinated and administered as an integral part of the total program for the handicapped. Another Bureau official said vocational education was one of the services often left out of the educational continuum for the handicapped.

Need for rehabilitation

State officials told us that lack of available services and qualified counselors have resulted in some handicapped individuals being excluded from the vocational rehabilitation program. At locations we visited program officials told us of shortcomings, such as

--a shortage or lack of facilities providing occupational training or gainful sheltered employment for the severely mentally retarded,

--a lack of sheltered workshops for the deaf multi-handicapped,

--the unavailability of rehabilitation counselors trained to work with the deaf,

--inadequate job placement activities, and

--minimal vocational rehabilitation services to institutions.

The availability of these facilities or services are essential to the continued development of some handicapped individuals. For example, a program official told us that without appropriate workshops the deaf multihandicapped normally end up in institutions.

Involuntary removal from education programs

Many handicapped individuals 21 years old or less have been transferred from State-supported educational or training institutions to nursing homes which often do not provide education for their residents. These individuals are cut off from educational opportunities critical to their self-development.

A substantial share of the cost for supporting nursing home residents is borne by the Federal Government through such welfare programs as Medicaid under title XIX of the Social Security Act, whereas State institutions may not qualify for such assistance. Placing the handicapped into nursing homes when they become eligible for Medicaid may relieve the State of some of the cost of caring for them.

One State official said studies have demonstrated that patients possessing certain self-help skills regress significantly when removed from an educational program and placed in a nursing home which does not provide such a program. None of the 260 nursing homes in that State provided educational programs for their residents even though they received many of the patients discharged from the State's facilities for the mentally retarded.

Data on persons released from one State's institutions for the mentally retarded showed that 659, or about one-fifth of the number released, were transferred into nursing homes during 1972. Two of these institutions released over half of the individuals in the age range 6 through 17 to nursing homes in 1972. Another transferred 72 percent of the same age group and over half of the 18- to 21-year-old persons into such facilities.

Another State reported that in fiscal year 1971 over 50 percent of those placed in nursing homes from mentally retarded facilities were 21-years old or less, and in fiscal year 1972 such placements increased to over 60 percent. One facility placed 63 persons in nursing homes over this 2-year period. In every instance these individuals were 21 years old or less; 54 were under the age of 19.

In another State, officials at an institution for the mentally retarded said several cerebral palsy victims were transferred to nursing homes because of pressure to reduce the institution's population and that some of these individuals were placed as early as age 18. This transfer took place even though they would not receive the educational benefits available in the institution. As a result, some individuals with the capability of eventually functioning in a workshop environment may never achieve that level because the new facility did not offer such a program.

RESTRICTED ACCESS TO EDUCATIONAL PROGRAMS

Although the Congress intends that every handicapped person have an equal opportunity to receive appropriate education, restrictive eligibility requirements related to age, intelligence, and severity of the handicap often serve as barriers to available programs.

Restrictive age requirements

Chronological age, rather than mental age or capability, often governs whether handicapped persons are eligible for a special educational program. As a result they may be excluded from programs when such programs could be helpful in reducing their disabilities or helping them to maximize their potential.

The Education of the Handicapped Act authorizes programs for handicapped children. The Bureau of Education for the Handicapped has determined that a handicapped person over age 20 may participate in its programs only if the person wishes to enter a class not filled by younger persons. Where authorized by law, such as in the vocational education program and the media services for the deaf program, education services for adults are available. However, a Bureau official said these services are not comprehensive.

Because Federal programs are geared to chronological age, handicapped individuals with low mentalities may not reach their potential. Educators told us that the mental age of some handicapped individuals does not directly relate to their chronological age. For example, a retarded individual age 21 may have the mental capability of a 6-year old but with appropriate training may advance to the level of a 12-year old. Some of these individuals might be able to participate in a sheltered workshop if not in the competitive job market. Termination of educational opportunities for the handicapped at age 21 may keep them from reaching their potential and from achieving maximum independence.

Eligibility criteria set forth in the law and administered by Federal and State agencies have restricted some handicapped individuals from participating in vocational rehabilitation programs. Rehabilitation Services Administration officials told us that individuals under a State's legal employment age usually are not accepted for assistance even though vocational rehabilitation is essential for some of them. As a result, some handicapped youth denied vocational education in the public schools because of the severity of their handicaps are also denied rehabilitation because they are too young. Although they might be accepted for assistance upon reaching age 16, the denial of services when they are needed forces these individuals to lose valuable time and to fall further behind in their development.

Officials in some States we visited told us that the minimum age for vocational rehabilitation was generally 16 because of State labor laws. Data showing the ages of about 20,000 persons referred for vocational rehabilitation in four Western States showed that only four-tenths of 1 percent were under 15 years of age.

Officials in one State told us that most of the handicapped served in vocational education programs were adults and only a few programs were offered to handicapped students below the ninth grade. Because regular programs were generally directed toward individuals at the secondary and postsecondary levels, young children or the more severely handicapped who were unable to pursue activities at such a level were not assisted.

A State vocational education advisory council official told us that handicapped children needed to be involved in prevocational or vocational training as early as possible and a minimum age requirement of 15 was much too high. The arbitrary age requirements kept individuals from receiving the training they needed at a much earlier age.

Restrictive intelligence requirements

Intelligence measurement also excluded certain handicapped individuals from education and training programs. Officials in one State told us that vocational education programs for the handicapped were directed primarily at those individuals who would eventually be capable of obtaining competitive gainful employment after completion of the program. Minimum intelligence requirements generally kept the trainable mentally retarded from participation. Though some of these individuals could not be expected to obtain employment in the competitive job market, many could participate in a sheltered workshop if given the proper training.

Certain types of handicapped individuals could not participate in rehabilitation programs because of intelligence requirements imposed by State agencies. For example, one State's guidelines for evaluating the limitations and rehabilitation potential of certain disability groups generally restricted individuals with intelligence quotients of less than 50 or greater than 78 from receiving rehabilitation.

Restrictions on the severely handicapped

In 1968 the National Citizens Advisory Committee on Vocational Rehabilitation recommended increased emphasis on special services for the severely handicapped as well as increased efforts to employ them. Despite the recommendations of the Committee, the more severely handicapped were still generally excluded from program participation. This was due, in part, to restrictive priorities and eligibility requirements imposed by Federal and State agencies administering the vocational rehabilitation program.

According to the Bureau of Education for the Handicapped, educators believe that 75 percent of the physically disabled and 90 percent of the mentally retarded could work, either in the competitive job market or in a sheltered environment, if given the proper education and training. The Senate Committee on Labor and Public Welfare reported in

1972 that less than 4 percent of the 22 million physically handicapped were employed. In fiscal year 1973 the Bureau estimated that only 33 percent of the adult blind were employed, no more than 25 percent of the 400,000 epileptics, and only a few of the 200,000 with cerebral palsy. As a result, billions of dollars are spent to support the dependent handicapped.

Although many handicapped individuals are eligible for vocational rehabilitation, most emphasis is placed on serving those with the potential to obtain competitive employment. Frequently, program services are not extended to those handicapped individuals who may function only in a sheltered work situation.

A 1973 HEW-financed study reported that the Federal rehabilitation role does not include services to the physically or mentally handicapped who have very low vocational success potential. Federal, State, and local officials generally confirmed that rehabilitation services were often not extended to the more seriously handicapped. Limited program funds and lack of available services contribute to the exclusion of such individuals from participating in the vocational rehabilitation program. We commented in a prior report 1/ that some persons receiving services might not be those who need the program most and that expenditures for persons with limited needs reduces the funds available for services to persons who might have greater needs.

According to the same 1973 HEW-financed study, the practice of "creaming" emphasizes the acceptance of less severely vocationally handicapped persons and those needing the least costly services. A Rehabilitation Services Administration regional official told us that this practice was common and in his opinion proper because the vocational rehabilitation program is obligated to serve those able to get back to work.

Other restrictions

Additional requirements and conditions which officials of the Bureau of Education for the Handicapped and/or the Council for Exceptional Children believe are restrictive to handicapped children include:

1/"Effectiveness of Vocational Rehabilitation in Helping the Handicapped," B-164031(3), Apr. 3, 1973.

- --Some States require toilet-training as a prerequisite to entrance into a special program, thereby eliminating many preschoolers and mentally retarded children.
- --Lack of acceptance of the handicapped by school personnel often preclude the participation of certain handicapped children, such as the emotionally disturbed.
- --Strict certification requirements for teachers of the handicapped deprive many children who could benefit from the services of appropriately supervised paraprofessionals or noncertified instructors.

CONCLUSIONS

Few locations in the Nation provide a full range of educational services to meet the needs of all handicapped children. In many instances the handicapped are not provided appropriate education because the delivery system for special education is fragmented and uncoordinated. Severe gaps exist in the continuum of services available. Limited availability of educational programs and restrictive eligibility requirements often keep handicapped individuals from progressing sequentially through a special education continuum, and instead of becoming self-sufficient many remain dependent on society.

The seriousness of the barriers facing the handicapped in obtaining suitable education makes it essential that (1) comprehensive, coordinated planning be done for assisting the handicapped, (2) funds be allocated in accordance with major identified needs, and (3) programs be adequately evaluated to determine their effectiveness. The following chapters discuss our observations and recommendations on planning programs, allocating funds, and evaluating the results of programs.

We believe our recommendations will help improve the effectiveness of programs for the education and training of the handicapped. We realize, however, that more Federal, State, and/or local funds will probably be needed to serve all handicapped individuals. We did not review the adequacy of funding for the programs and therefore have no conclusions in this regard.

CHAPTER 3

PLANNING FOR EDUCATIONAL SERVICES

Federal programs for education of the handicapped have not grown within the framework of a comprehensive plan and the lack of adequate planning has seriously impaired their effectiveness.

Studies have indicated that the system for providing services to the Nation's handicapped is fragmented, uncoordinated, and not particularly responsive to an individual's total needs. Because so many agencies dispense funds and provide services, no individual or group plans, monitors, or controls the system comprehensively.

In our opinion, the Federal agencies have not adequately coordinated their programs to facilitate a continuum of services available to meet individualized needs and to maximize efforts to insure that the handicapped have the education necessary to make them more capable of self-sufficiency. Policymaking, funding, and operating decisions are often made for similar program purposes by different groups of people, based on a lack of data about program effectiveness. As a result, program effectiveness has been seriously compromised and it does not appear that OE's goal--to provide equal educational opportunity for all handicapped children in cooperation with State and local educational agencies by 1980--will be realized.

LACK OF WELL-DEFINED, COORDINATED PLANNING

Although Federal legislation has called for coordination and cooperation among all programs and agencies working with handicapped children, there is little systematic effort among Federal agencies to coordinate planning to help insure more comprehensive provision of services.

In 1966 studies by the Senate Committee on Labor and Public Welfare and organizations having a special interest in educating handicapped children found that programs which could provide special education were ineffective, fragmented, and scattered across a number of administrative units within OE. As a result, the Congress authorized the establishment of the Bureau of Education for the Handicapped to insure that Federal funds would be used effectively and properly.

Since 1966 the Congress has expanded Federal involvement by authorizing additional programs, including special programs for the deaf and blind, regional resource centers, special preschool programs, and a National Media Center for the Handicapped. In addition, some programs designed for children have a portion of their funds earmarked for the handicapped. Portions of the funds made available under title III of the Elementary and Secondary Education Act and the Vocational Education Amendments of 1968 are earmarked for the handicapped. The Economic Opportunity Amendments of 1972 mandate that a percentage of the Head Start program enrollments be composed of handicapped children.

Our appraisal of the administration and flow of selected Federal funds for education of the handicapped indicated that many of the problems reported in 1966 still existed. Programs were not coordinated and were often fragmented and dispersed across a number of administrative units. In our opinion HEW should have better coordinated the actitities of the various agencies involved in educating the handicapped.

According to the Bureau of Education for the Handicapped's proposed technical assistance plan for fiscal year 1973, Federal dollars were not being used as effectively as possible and administrative problems in many States were so serious that they interfered with programs and services for handicapped children. The plan pointed out:

> "The planning capability in special education within many of the States has typically been very weak, restricted, and unsystematic; and there has been very little coordinated planning--either within or between pertinent State and local education agencies. Thus, each of the OE funding authorities is often administered in isolation, with very little articulation between an individual OE program and the State's own objectives, and with little or no coordination among the various Federal programs. These problems have manifested themselves in the projected activities documents and in the project applications, as well as in contacts with individual States."

Inadequate coordination at the national, State, and local level

The Bureau of Education for the Handicapped is the principal organization in OE for administering education and training programs for the handicapped, although controlling only a relatively small portion of the funds available for such purposes. Some progress has been made toward coordinating planning among other concerned Federal agencies, but this effort has not been extensive. On the basis of our discussions with Federal officials, it appears each agency often operates without knowledge of what other agencies are doing--where they are putting their resources and to what extent specific needs are being met.

Our previous report on the "Effectiveness of Vocational Rehabilitation in Helping the Handicapped" commented that some of the services provided under the vocational rehabilitation program were available under other Federal programs. Therefore it was probably not necessary to meet the needs of the total universe through resources available only to the Rehabilitation Services Administration. In a January 1973 report, the Secretary of HEW stated that, in planning and programing, the Department's perspective must be comprehensive and integration must replace fragmentation.

Although there has been some joint funding of projects by agencies within HEW, little, if any, comprehensive planning has been done to provide the handicapped with the necessary continuum of services and end-oriented education. We found little evidence that Federal agencies had attempted to jointly determine the unmet educational needs of the handicapped and each agency's responsibility for meeting their needs. Further, the national advisory committees for various programs for the handicapped were not coordinating their efforts to provide more comprehensive direction. We believe that the lack of such coordination has contributed to duplication of effort and conflicts among agencies regarding jurisdiction for meeting specific educational needs.

A 1973 HEW-financed report stated that interrelations among agencies at the management level were often perfunctory and that the responsibilities of the agencies overlapped considerably.

Although education projects supported under title III of the Elementary and Secondary Education Act and part B of the Education of the Handicapped Act are similar in that they are both directed toward developing innovative projects, they are administered separately. The Bureau of Education for the Handicapped is not directly responsible for monitoring the funds set aside for (1) the handicapped under the Vocational Education Act and (2) title III of the Elementary and Secondary Education Act, but two individuals are assigned to monitor these funds on a part-time basis. Both monitors said they could not effectively monitor these programs on a part-time basis.

State educational agencies often have only limited contact with personnel in other agencies of the State which provide supportive services either directly or indirectly to handicapped children. A 1974 study financed by OE concluded that coordinated programs for handicapped children neither existed nor were planned in any of the 49 States included in the study. The study pointed out that some services were duplicated among agencies and that other services were not available from any agency. It also stated that special education personnel had limited contact with State vocational education staffs and that they had little influence, if any, in developing programs for career training of handicapped children.

Programs administered by many organizational units

The need for coordinated planning is intensified because the numerous programs for the handicapped are administered by different offices and agencies at the Federal, State, and local level. These programs are adminstered by at least 14 separate organizational units in HEW alone and several thousand State and local entities. Most of the 50 major Federal programs which deal with the needs of the handicapped identified by a 1973 HEW-financed study are administered by HEW.

In 1972 the Senate Appropriations Committee expressed concern that there might be serious overlap and duplication among the myriad of HEW programs serving the handicapped. The Committee said:

> "* * * There is a critical need for these programs to be evaulated in terms of the total effort to serve the handicapped to determine where duplication exists."

The Committee felt that HEW should coordinate these programs so that Federal funds would be used to reach more handicapped persons rather than to provide the same services through several different programs. Yet, there is no HEW agency responsible for coordinating programs for the handicapped.

Many of the Federal and State programs for handicapped youth were not the major responsiblity of any one agency. Further, providing services to the handicapped often was not a formal organized part of an agency's program. A 1973 HEW-financed study observed that the lack of direct responsibility might make it difficult for the handicapped to obtain needed services.

Coordinated planning is also essential because agencies with primary responsibilities for providing services to the handicapped do not have control over the flow of all funds for the services. Although the Bureau of Education for the Handicapped is the principal unit in OE for administering programs for educating the handicapped, only about half of the Federal funds for these programs flow through the Bureau.

Federal programs not integrated into State planning

Under existing procedures States have an important and influential role in administering various Federal programs. OE's administrative manual states that the State educational agency will:

> "Assume the responsibility for coordination of all other Federal, State, and local programs providing educational services for handicapped children within the State."

Certain Federal program funds for educating the handicapped do not flow through the State but flow directly from Federal agencies to local agencies and institutions and therefore are not necessarily integrated into the overall State planning. As shown in the chart on the following page, various program funds bypass the State and flow directly to the local level.

There were about 17,000 operating school districts in the Nation during school year 1972-73 making coordination difficult, if not impossible. State educational agency officials told us that in some instances (1) the State educational agencies were not aware of specific programs funded out of OE headquarters, (2) the State educational agencies were not requested to comment or signoff on proposed programs or had no input with respect to the type of projects to be funded, and (3) projects funded either did not meet the State's highest need or duplicated services already available. Bureau of Education for the Handicapped officials told us that these instances may reflect States following past operating procedures or misunderstanding of current procedures. New Bureau requirements for its discretionary training funds specify that States either develop projects cooperatively or receive information about them.

State organizational patterns aggravate coordination problems

Generally no formal structure for effectively coordinating all programs for the handicapped existed in the States we visited. Various organizational patterns existed but in no instances were all the programs for the handicapped administered by the same unit. Federal education programs administered by the States were handled by four or five different divisions or organizational units. In most cases a lack of coordination existed among program elements.

A 1973 HEW study showed that, in some instances, coordination of programs for the handicapped was practically nonexistent. Several State administrators commented that they never had any impact on the decisions relating to other organizations' projects although they signed the project coordination sheet when it was required by Federal regulations.

In view of the large number of educating bodies, the need for program coordination at the State level is evident. In fiscal year 1972, 136 State agencies served about 2,700 schools eligible to receive Federal funds for handicapped children in State institutions. We identified only four States where one agency received the entire State allotment. In some States only a few State agencies received funds but numerous schools under these agencies were involved; in other States several State agencies received funds but only a few schools were involved.

In some States we visited, the State educational agencies merely channeled Federal funds for institutionalized children to eligible agencies and did not coordinate planning for resource allocations and program evaluations. In most instances the State educational agencies received the smallest amount of the funds distributed and believed they had no responsibility for planning or evaluating other State agency programs.

In one State, the Director of Special Education told us that the State educational agency was responsible for getting money out to the institutions, and was not responsible for determining if program plans for the education of institutionalized children were based on adequately identified needs. One State coordinator for the program for institutionalized children told us that his role was a bookkeeper operation in which he merely passed money on to institutions. Bureau of Education for the Handicapped officials said that attempts to foster coordinated planning among State agencies had met with limited success because of their operating differences.

Planning not effectively integrated

The Congress provided that the Bureau of Education for the Handicapped encourage States to develop comprehensive plans for coordinating State, local, and Federal funding into a unified plan for educating handicapped children. The Bureau's technical assistance program attempted to bring about more effective, coordinated use of various funding resources. The main focus of this effort was to help States develop improved projected activities documents. The Bureau

METHOD OF DISTRIBUTION OF SELECTED FEDERAL PROGRAM FUNDS FOR EDUCATION OF THE HANDICAPPED

FEDERAL PROGRAM ACTIVITY

OFFICE OF EDUCATION

BUREAU OF ELEMENTARY AND SECONDARY EDUCATION PROGRAMS AUTHORIZED BY PUBLIC LAW 89-10 AS AMENDED

1 PROVIDE SERVICES FOR EDUCATIONALLY DEPRIVED CHILDREN (TITLE I)

2 STRENGTHEN EDUCATIONAL PROGRAMS FOR CHILDREN IN STATE-SUPPORTED SCHOOLS (PUBLIC LAW 89-313 AMENDMENT TO TITLE I)

3 PROVIDE GRANTS FOR SUPPLEMENTARY, INNOVATIVE, OR EXEMPLARY PROJECTS (TITLE III)

BUREAU OF EDUCATION FOR THE HANDICAPPED PROGRAMS AUTHORIZED BY PUBLIC LAW 91-230, TITLE VI

4 STRENGTHEN EDUCATIONAL AND RELATED SERVICES FOR PRESCHOOL, ELEMENTARY, AND SECONDARY CHILDREN (PART B)

5 DEVELOP CENTERS AND SERVICES FOR DEAF-BLIND CHILDREN AND PARENTS (PART C)

6 RECRUIT AND TRAIN PERSONNEL; DISSEMINATE EDUCATIONAL INFORMATION (PART D)

7 SUPPORT RESEARCH AND RELATED ACTIVITIES (PART E)

8 SUPPORT MEDIA SERVICES AND THE CAPTION FILM LOAN PROGRAM (PART F)

9 ESTABLISH AND OPERATE MODEL CENTERS FOR CHILDREN WITH SPECIFIC LEARNING DISABILITIES (PART G)

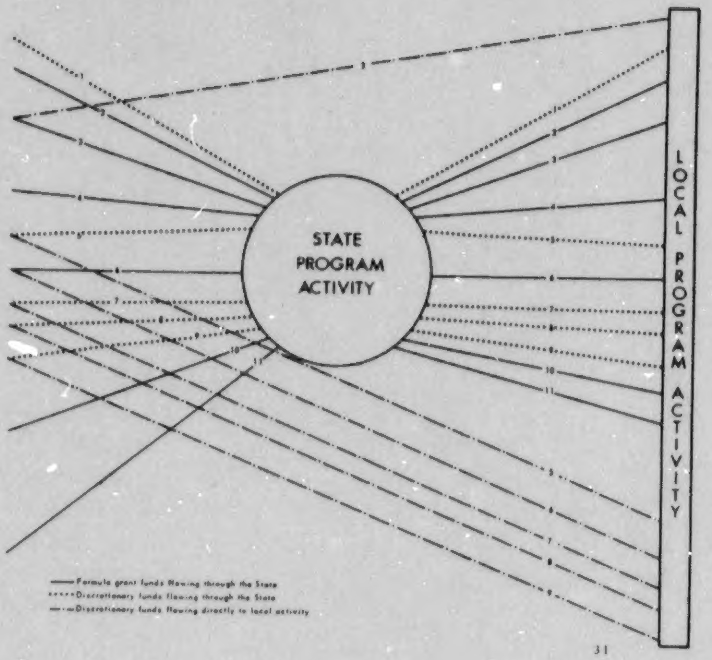
BUREAU OF OCCUPATIONAL AND ADULT EDUCATION PROGRAM AUTHORIZED BY PUBLIC LAW 90-576

10 PROVIDE VOCATIONAL EDUCATIONAL SERVICES FOR THE HANDICAPPED (PART B)

SOCIAL AND REHABILITATION SERVICE

REHABILITATION SERVICES ADMINISTRATION PROGRAM AUTHORIZED BY PUBLIC LAW 93-112

11 PROVIDE REHABILITATING SERVICES TO PEOPLE WHOSE HANDICAP SERVES AS A BARRIER TO EMPLOYMENT


STATE PROGRAM ACTIVITY
LOCAL PROGRAM ACTIVITY
1
2
3
4
5
6
7
8
9
10
11
——Formula grant funds flowing through the State
•••••Discretionary funds flowing through the State
—·—Discretionary funds flowing directly to local activity

considered these documents to be the basic program-planning instruments designed to tie in and show the relationship among the various OE programs for the handicapped and each State's special education programs.

The Bureau recognizes that some technical assistance efforts to improve State planning have not succeeded. It reported in 1973 that some States reverted to former practices, such as separate plans for some Federal programs or none at all when there was no followup.

The Bureau requires that each organization in a State receiving Federal funds help prepare the projected activities document to induce mutual coordination of objectives and activities. State administrators of Federal programs for the handicapped under the Education of the Handicapped Act, the Vocational Education Act, and the Elementary and Secondary Education Act are required to sign the document. Bureau officials said that in some States the document had facilitated coordinated planning.

Several State officials told us that the projected activities document was not used as a valid planning document and that it was of little use to them. In some States we visited the document had been prepared by one official or in one program unit and did not involve other units. Some State officials told us that they merely signed the document to secure program funds and that the document did not necessarily reflect those activities that would be funded.

States are not bound to fund projects according to intentions spelled out in the document, and in many cases, they had not submitted required end-of-the-year project reports to give the Bureau some indication as to how they were spending their allocations. Consequently, the Bureau did not know whether funds were spent to fulfill its objectives and to meet the needs of the State as shown in the document. In several instances (1) the document did not identify those activities which had been funded and (2) only a limited relationship appeared to exist between what was planned and what was funded.

States are also required to prepare plans for other programs, such as vocational education, but programs for the handicapped had not been integrated into these other planning efforts. Instead each State agency responsible for a program generally prepared its plans in isolation of other agency efforts and the overall State planning effort remained fragmented.

INFORMATION ABOUT THE HANDICAPPED NOT COMPREHENSIVE

In August 1972 the Senate Committee on Labor and Public Welfare concluded that information about handicapped individuals, the services they receive, and the seriousness of their disabilty was totally inadequate. The Committee also noted that without adequate information it was difficult to formulate public policy and to know if current programs were working effectively.

No one Federal agency is responsible for collecting all data on the handicapped. State agencies administering the Federal programs generally gather only that information required by the Federal agencies--generally only quantitative information, such as numbers and types of handicapped individuals served, activities funded, and costs. Reports submitted to satisfy Federal requirements generally do not contain information on severity and type of handicap and individuals being served, types of services, locations of the handicapped, or program results.

The States we visited did not have, and Federal guidelines do not require, uniform or systematic means for collecting data. Thus, under each program different types of data were collected and it was not used to coordinate program resources to maximize the impact of Federal funds.

A 1973 HEW-financed study stated that cost data was generally not available to show differences in various delivery systems for educating particular types of handicapped individuals. Yet, one of the recurring questions in Federal legislation has been "What is the excess cost of educating the handicapped child?"

State reports submitted to OE on the program for the institutionalized handicapped and the programs authorized under the Education of the Handicapped Act basically show the numbers and types of handicapped individuals served and the statewide cost of the program. Annually reports submitted to OE by the States on the vocational education program also [illegible] the number of the handicapped participating and expenditures. These figures are not broken down by type of handicap. Enrollments are broken down by type of vocational education program, such as health or agriculture. State officials could not readily give us information on the types being served under the vocational education programs at any particular time.

A 1973 HEW-financed study indicated that the quality of the vocational rehabilitation data is better than that available for any other Federal program serving handicapped youth. Vocational rehabilitation reports from States primarily show number of clients served and rehabilitated, expenditures, and type of rehabilitation. However, these reports did not show the severity of the handicaps and the types of educational services most effective.

SOME FUNDS FOR STATE ADMINISTRATION AND PLANNING MISUSED

The effectiveness of Federal costs for education of the handicapped has been hampered by the lack of adequate planning at the State level even though the Congress has authorized specific funding for administration and planning of programs. In some instances States have not used the funds provided for planning programs but rather for administration of other State educational agency programs. As a result, programs for the handicapped often have not received an adequate share of the administrative planning funds provided to the States.

Some State educational agency officials told us that they are reluctant to spend funds for administration and planning because every dollar spent comes out of funds that would otherwise be available for services. In other instances, the agencies earmark the funds for administration but do not use them for program planning.

In the States visited, State agencies used only a limited amount of available funds for program planning. In one State, administrative funds provided under part B of the Education of the Handicapped Act were used to support administrative costs not specifically associated with the act, such as salaries of State educational agency personnel whose primary responsibility was certifying State requirements with respect to teacher-pupil ratios in classes throughout the State. State personnel told us that they did not have specific responsibility for planning, reviewing, or evaluating federally funded projects.

Part B of the Education of the Handicapped Act, in effect during our review, authorized a payment to a State to defray its program administration and planning costs of $100,000 or 5 percent of the total grant to the State, whichever is greater. Some funds made available for this purpose were not spent. In one State approximately 40 percent of the $100.000 made available for fiscal year 1973 was not used and a similar situation existed for fiscal year 1972. Although the State program coordinator told us that the State did not need $100,000 to administer the program, we believe the remaining funds could have been effectively spent on additional planning to improve the impact of the State's program. Bureau of Education for the Handicapped officials told us that some States, that have a relatively small federally funded program, might not spend the entire amount allowed for administration and planning. They also said a 1974 OE-financed study identified a number of productive uses made by States of such funds.

CONCLUSIONS

The establishment of a number of separate Federal programs for helping to educate the handicapped intensified the need for coordinated planning among the Federal agencies. However, there has been little systematic effort on the part of agencies to coordinate planning to help insure comprehensive provision of services. Programs for special education remain fragmented and scattered across various administrative units, each operating without knowledge of what the others are doing--where they are putting their resources and to what extent specific needs are being met. Similar situations are evident at State and local levels:

--Federal education programs were administered by several organizational units in each State we visited but were not effectively coordinated.

-Responsible State organizational units did not adequately coordinate and integrate programs to provide a continuum of educational services.

--Federal funds available for administration and planning were not always used for these purposes.

Effective planning for special education programs requires comprehensive information about the handicapped. Planning has been weakened by a lack of reliable data on the handicapped, such as types, severity, location, and cost of providing education. Policymaking, funding, and operating decisions are often made for similar program purposes by different groups, based in each case on a lack of data about program effectiveness.

RECOMMENDATIONS TO THE SECRETARY OF HEW

The Secretary should implement procedures for systematic planning among the organizations responsible for educating and training the handicapped. A comprehensive plan for educating and training them should be developed and the responsibility for carrying out each element of the plan should be clearly defined.

To facilitate planning, HEW should provide for a uniform and systematic means for collecting data about the handicapped, including (1) numbers of handicapped by type, location, and severity, (2) types of services, and (3) program results.

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HEW commented on matters discussed in this report by letter dated August 15, 1974. (See app. I.) It concurred with our recommendations and said that a new Office for the Handicapped has been created within HEW to deal more effectively with the special needs of the Nation's handicapped citizens. This office will

--prepare a long-range projection for providing comprehensive services to the handicapped,

--continually analyze the operations of programs and evaluate their effectiveness,

--encourage coordination and cooperative planning among programs serving the handicapped,

--develop ways to promote the use of research, and

--provide for a central clearinghouse for information and resources available to handicapped people.

HEW also said that the new office will develop a plan by March 1975 which will address the problem of uniform data collection. Data collection efforts are being conducted by the Bureau of Education for the Handicapped, the National Center for Educational Statistics, and the Office of the Assistant Secretary for Planning and Evaluation.

CHAPTER 4

ALLOCATION OF FUNDS FOR THE HANDICAPPED

Because Federal education and training funds for the handicapped have not been allocated on the basis of priorities established for meeting the greatest educational needs, program managers lack assurance that

--handicapped children are provided an equal opportunity for assistance,

--funds are targeted to program objectives, and

--the impact of Federal programs is maximized.

FEDERAL AGENCIES' ALLOCATION OF PROGRAM FUNDS

About 80 percent of Federal education and training funds for the handicapped is allocated to States according to formulas specified in the authorizing legislation. The formulas generally specify that program grants be made to States according to such factors as population, per capita income, average daily pupil attendance, and average per pupil costs. Although the Federal agencies have in some instances established priorities for national objectives, States may spend the funds according to their preference with only general guidance from Federal agencies on where funds should be targeted.

Federal education legislation also provides for certain discretionary programs to be administered directly by OE with or without State involvement. OE has used various methods to allocate these program funds to State and local educational agencies, universities, and other organizations. The funds are used for such purposes as conducting research, training educators, and establishing demonstration projects. Although OE has reported a number of successful results from these funds, the allocation methods used sometimes resulted in program funds being allocated without adequate knowledge of the specific needs involved. Allocations generally have favored those States or local areas that already had programs, rather than the States or areas attempting to initiate them.

Effective allocation at the Federal and State levels has been hampered because OE has not identified what types of projects are most successful in maximizing the impact of the funds.

Shortcomings of formulas

Although the formulas set forth in the authorizing legislation were intended to achieve an equitable distribution of funds, several characteristics in the formulas may result in inequities in the opportunities available for the handicapped rather than eliminate them. The various formula requirements are summarized below:

Program	Formula
Education of the Handicappped Act:	
Part B	Allocated on the basis of the number of children ages 3 through 21 in each State compared to a similar population for all States, with no State's allotment being less than $200,000.
Elementary and Secondary Education Act:	
Public Law 89-313 amendment to title I for institutionalized children	Allocated on the basis of one-half the State's average public school per pupil cost or one-half the national average per pupil cost, whichever is greater, times the average daily attendance of handicapped individuals in State-supported or operated schools.
Title III	Allocated on the basis of the number of children ages 5 through 17 in each State compared to a similar population for all States and each State's total population compared to

	the Nation's population. Eighty-five percent of the funds are administered by the States and 15 percent by the Commissioner of Education. Both the States and the Commissioner must not expend less than 15 percent of the funds on the handicapped.
Vocational Education Act: Part B	Allocated on the basis of a weighted formula of per capita income (inverse relationship) and population of various age ranges between 15 and 65 in each State compared to a similar population for all States. Each State must match the Federal funds with State funds on a 50-50 basis. The State must expend at least 10 percent of the Federal portion for the handicapped.
Rehabilitation Act of 1973: Title I, part B	Allocated on the basis of each State's population and per capita income compared to the Nation's population and per capita income. Each State must match Federal funds with State funds amounting to at least 20 percent of the total.

The formula method of allocating funds has not succeeded in matching funds to unmet needs among the States. Our analysis of fiscal year 1972 funds for the handicapped provided under titles I and III of the Elementary and Secondary Education Act, the Education of the Handicapped

Act, and the Vocational Education Act showed a number of instances when a State's ranking in terms of unserved handicapped individuals differed from the amount of Federal funds received. One State ranked 9th in the number of unserved handicapped individuals and 34th in the amount of Federal funds received. Another State ranked 29th in the number of unserved handicapped individuals and 9th in the amount of Federal funds received. Estimates of numbers of individuals served by each State are not considered exact; however, we have cited available data provided to OE by State educational agencies which we believe to be suitable for demonstrating a general situation. See map on the following page.

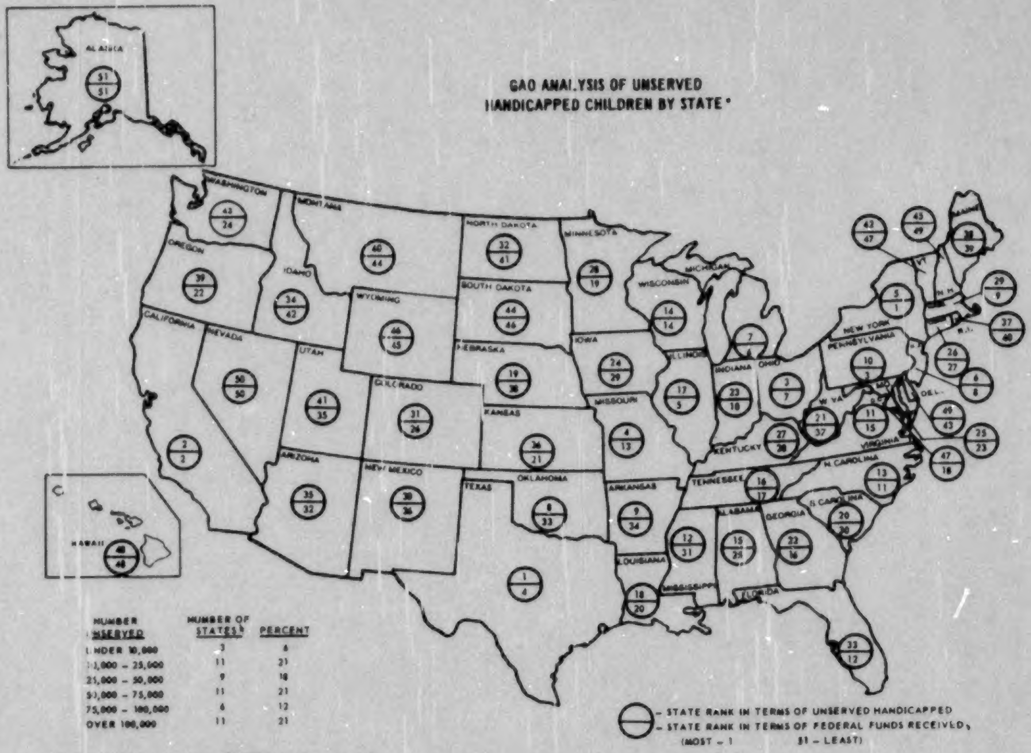
The formula method for allocating resources to the States gives Federal agencies little control over how the funds are spent. Federal agencies may only make suggestions but States are responsible for deciding how to target the moneys to meet program objectives.

Although some Federal agencies encourage States to assume the funding of Federal projects through State and local funds, statutory formulas provide no incentive for States to do so. States receive formula allocations each year based on factors which do not consider the State's success or failure in generating additional State efforts.

Formulas which allocate funds on the basis of population and/or per capita income do not consider variations in State needs due to differing incidence rates of various types of handicaps, differing State program priorities, differing educational costs for programs aimed at specific clientele, or the willingness of State and local school districts to provide funds. Because of these differences, population and per capita income may not always accurately reflect a true index of need.

Existing formulas tend to allocate funds on the basis of population age ranges which may or may not relate to the target population that a State intends to serve under a particular program. Under part B of the Education of the Handicapped Act, a State receives an allocation based on a population aged 3 through 21. Thirty-two States receiving funds under the program have no mandatory legislation to

GAO ANALYSIS OF UNSERVED HANDICAPPED CHILDREN BY STATE[a]


ALASKA
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WASHINGTON
43
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MONTANA
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44
NORTH DAKOTA
32
41
MINNESOTA
28
19
MICHIGAN
7
6
WISCONSIN
14
14
OREGON
39
22
IDAHO
34
42
WYOMING
46
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SOUTH DAKOTA
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IOWA
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UTAH
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COLORADO
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NEBRASKA
19
38
KANSAS
36
21
MISSOURI
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13
TENNESSEE
16
17
S CAROLINA
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30
ARIZONA
35
32
NEW MEXICO
30
36
TEXAS
1
4
OKLAHOMA
8
33
ARKANSAS
9
34
LOUISIANA
18
20
MISSISSIPPI
12
31
ALABAMA
15
25
GEORGIA
22
16
FLORIDA
33
12
HAWAII
48
48
– STATE RANK IN TERMS OF UNSERVED HANDICAPPED
– STATE RANK IN TERMS OF FEDERAL FUNDS RECEIVED,
(MOST – 1 51 – LEAST)

NUMBER UNSERVED	NUMBER OF STATES[b]	PERCENT
UNDER 10,000	3	6
10,000 – 25,000	11	21
25,000 – 50,000	9	18
50,000 – 75,000	11	21
75,000 – 100,000	6	12
OVER 100,000	11	21

[a] Figures are based on fiscal year 1972 OE data and do not include funds alloted for Federal deaf-blind centers, instructional materials centers, and media service and caption film centers.

[b] Includes District of Columbia.

serve all handicapped individuals aged 3 through 21 and consequently may be receiving funds for children they do not serve. On the other hand, nine States participating in the program provide services to the handicapped from birth through age 21 and therefore serve some children (under age 3) for which they receive no allocation.

The allocation formula for the program for institutionalized children assumes that the cost for education services in various types of institutions is constant. A 1970 OE-financed study showed, however, that cost factors of residential programs for the deaf, blind, neurologically impaired, and severely emotionally disturbed varied considerably. Further, the formula allocates funds to institutions on the basis of their average daily attendance. However, under HEW regulations for computing average daily attendance, the severely handicapped are often counted as only half-day students because they cannot tolerate the required hours of instruction needed for them to be counted as full-time students. Therefore, it appears that institutions are not equitably compensated for providing services to the severely handicapped.

Allocation of discretionary funds

Discretionary funds account for a significant portion of the funds appropriated to the Bureau of Education for the Handicapped. Such funds are granted to State and local educational agencies, universities, and other organizations on the basis of evaluations of individual project proposals without being bound by elements of a formula. This allows Federal agencies considerable flexibility in attempting to meet specified objectives. Although we did not evaluate the merits of discretionary projects in meeting specific objectives, we did review the methods used to allocate the funds and noted some inequities.

Allocations of discretionary funds tend to favor existing programs. Bureau officials told us that, once an institution of higher learning receives a training program assistance grant, it generally receives continued support thereafter. Likewise, Federal regional education centers continued to receive grant support year after year even though the services provided had been limited to small geographical areas and the needs of other areas had not been met. Consequently, other institutions wishing to initiate a special education program may not be assisted because of lack of funds.

Bureau officials told us that continual renewal of training program assistance grants was intended. They said increased financial commitments were required of these institutions and that it would be counter productive to stop funding strong established training programs in these institutions in order to begin new programs in other institutions relying heavily on Federal funding.

The Bureau's discretionary research funds have not been allocated on the basis of assessment of what needs to be developed, but rather primarily on the basis of unsolicited proposals. Bureau officials told us that they had not systematically solicited opinions from the educational community on what needs to be developed nor had they established priorities for research needs. As a result, the Bureau has no assurance that research funds are effectively channeled into areas of highest need.

Bureau officials took the position that all their research projects support one of the five national Bureau objectives. We noted, however, that more than 50 percent of the projects funded with 1973 moneys were shown as supporting the objective that all children receive appropriate educational services by 1980. In our opinion, the wording of this objective makes it a catchall category and almost any project could meet the definition. Bureau officials said that beginning in fiscal year 1975, OE is requiring competitive solicitations for most contract research funds. The Bureau, in implementing this administrative change, is holding a series of national conferences on identification of special education research issues.

Projects producing catalytic effect not identified

Projects designed to maximize the use of Federal funds as a catalyst have not been identified in planning for national allocation of program funds. OE has emphasized the concept of catalytic effect--funding programs designed to stimulate activity and financial support for special education by State and local agencies. However, a 1974 OE-financed study stated that funds provided under part B of the Education of the Handicapped Act were used largely to fund supportive services on a continuing basis in a handful of the Nation's school districts. They had not been used to any great extent to initiate or expand basic services to the handicapped. The study concluded that these funds had not stimulated additional State and local financing for special education.

Bureau of Education for the Handicapped officials told us that some success had been realized by using discretionary funds to stimulate additional programs. However, OE has not determined what types of projects are most successful in producing the desired results. Without this knowledge, OE cannot make informed decisions as to where discretionary funds should be targeted or provide adequate guidance to States to use formula grant funds more effectively.

STATE AGENCIES' DISTRIBUTION OF PROGRAM FUNDS

Without specific guidance from Federal agencies for distributing Federal funds, States have used various methods and criteria. We observed that the States distributed funds to the local levels on the basis of set formulas or on a first-come-first-served basis rather than on a system of priority needs. Because there has been little effort to identify needs as a basis for allocating program funds, there is no assurance that funds have been targeted to areas of highest need or to areas maximizing program impact.

Inadequate guidance and direction

Most Bureau of Education for the Handicapped technical assistance to States has been limited to helping them develop State plans to comply with Federal statutory requirements. The Bureau's guidance has not been specifically directed to assist States in developing methods and procedures for allocating resources to meet State needs. Rather, it has looked upon this as a State responsibility.

Bureau officials said almost all contact with State educational agency staffs has been either on an informal basis or through memorandums and administrative publications. These officials acknowledged that States lacked a sound understanding of Bureau objectives and their relationship to State needs. Bureau administrative publications generally have not explained how best to allocate grant funds to achieve objectives or how a State might best meet its needs.

State distribution favored urban areas and larger school districts. A 1974 OE-financed study indicated that funds for the handicapped had gone to the school districts already receiving other Federal funds. Although our review did not include general Federal educational assistance programs, we did observe some tendency to concentrate handicapped funds.

Multiyear funding practices also constrained development of new programs. In one State about one-fourth of the part B Education of the Handicapped Act funds were directed to one project over the past several years, although there were no expectations of State and local funding for the project. In some cases funds were used for nonhandicapped individuals.

Assistance to States for vocational education and vocational rehabilitation has been provided by HEW regional personnel. Regional officials told us they received little guidance or direction from headquarters. They said that they generally provided guidance only to help States develop plans to comply with statutory requirements and none on distribution of funds to meet program objectives or identification of type of programs to fund.

Variety of methods used

In the States we visited Federal funds generally were made available to local schools, institutions, or private facilities in one of four ways (1) first come, first served, (2) competitive project selection, (3) set formula, or (4) State direction. A lack of uniformity existed among the States in the way they distributed specific program funds.

--In some States vocational education program resources were distributed on a first-come-first-served basis and others employed set formulas.

--In some States funds provided under part B of the Education of the Handicapped Act were largely distributed on a noncompetitive basis for a few large grants which the State educational agencies wanted to fund. Another State used a competitive rating system, but projects with the highest ratings were not necessarily funded.

--Under title III of the Elementary and Secondary Education Act, project proposals generally were ranked according to specific criteria and project selection was competitive.

--Under the program for the institutionalized handicapped, some States distributed funds to institutions exclusively on average daily student attendance regardless of individual needs. Others distributed funds by judgments of what programs were needed and on past funding levels.

CONCLUSIONS

Funds for educating and training the handicapped are not allocated on the basis of priorities for meeting their needs. As a result, Federal agencies lack assurance that (1) the impact of Federal programs is maximized, (2) funds are targeted to program objectives, (3) highest priority needs are met, or (4) handicapped children are provided an equal opportunity for educational assistance.

About 80 percent of Federal education and training funds are allocated to States by fixed formulas. States receive only general guidance from Federal agencies on how these funds should be spent and there is no assurance that the funds are distributed in proportion to the greatest needs. Discretionary funds sometimes have been allocated without knowledge of specific needs and have tended to favor institutions already having programs. Similarly, State agencies have distributed funds to the local levels by set formulas or on a first-come-first-served basis.

Although Federal funds are intended for use as a catalyst to initiate and expand State and local special education programs, those projects that best produce catalytic effects have not been identified. Accordingly, Federal agencies are not in a position to channel funds to those areas achieving the greatest impact.

RECOMMENDATIONS TO THE SECRETARY OF HEW

The Secretary should

--develop a system for assisting the States in identifying and establishing priorities for the full range of comprehensive educational needs of the handicapped;

--require that State applications for grant funds specify how the funds will be used in meeting the identified needs;

--identify the areas of greatest need, such as research, demonstration, and teacher training, to maximize the impact of Federal discretionary funds; and

--identify the projects which have produced the best catalytic effects and direct funds into these areas.

- - - -

HEW concurred in our recommendations and made the following statements about them:

--A more formalized system for assisting the States in identifying and establishing priorities for the educational needs of the handicapped would be more effective; therefore, HEW has established a working group composed of staff members of various concerned components within the Department, the National Center for Educational Statistics, and selected States.

--Information on how grant funds will be used in meeting identified needs is already required in a report that States must submit each year. Because the quality of this information could be improved, HEW is considering how this can be done.

--Identification of areas of greatest need in research, demonstration, and teacher training are ongoing. HEW's operational plan for research planning includes a contract for national conferences with the resultant updating of priority areas. The Bureau of Education for the Handicapped has convened meetings in one-third of the States and the remaining States will be covered by the spring of 1975. These meetings will result in the formation of intra-State plans for special education representatives from (1) State departments of special education, (2) colleges and universities, (3) boards of higher education, (4) State legislators, and (5) parent groups. Inter-State efforts also will be coordinated by the Bureau to insure an overall national program.

--Although the Bureau of Education for the Handicapped has been identifying, informally on an individual basis, projects which have provided the best catalytic effect and directing funds into these areas, HEW agrees that the process should be formalized. With additional staff recently added, the Bureau will be able to provide increased technical assistance to the States to assist them in their discretionary responsibility to distribute these funds. HEW believes that considering such achievements as the increased enrollments of children in special education classes, the addition of thousands of more specialized teachers, and newer and stronger State legislation, funds for the education of the handicapped have been well spent.

RECOMMENDATIONS TO THE CONGRESS

The Education Amendments of 1974 (Public Law 93-380) amended part B of the Education of the Handicapped Act to require that starting with fiscal year 1976, funds be made available to States only after they submit an amendment to the required State plan which shows in detail the policies and procedures which the State will undertake in order to insure the education of all handicapped children and insure that all handicapped children in the State in need of special education are identified and evaluated. The amended State plan must also establish a detailed timetable for providing full educational opportunity for all handicapped children. The above requirement would not take effect, however, in any year in which the aggregate amounts allotted to the States under part B was less than $45 million.

The Congress should consider:

--Making similar adjustments to titles I and III of the Elementary and Secondary Education Act, to part B of the Vocational Education Act, and to title I, part B of the Rehabilitation Act of 1973, which earmark funds for the handicapped.

--Eliminating those formula allocation factors in the legislation which may result in unequal opportunities available to the handicapped. Such factors include population and per capita income which may not always accurately reflect a true index of need and age ranges which are inconsistent with the intended target population.

- - - -

HEW agreed on the importance of having needs assessments but thought that withholding funds to achieve this would be too harsh a penalty, possibly hurting those people it ultimately intends to help. Instead, HEW believes the Congress should consider building into the law positive incentives for States to adopt such assessments. HEW's comments, however, were made before enactment of the Education Amendments of 1974, which amended part B of the Education of the Handicapped Act to require that funds be made available to States only after the States have established the necessary policies and procedures to make a comprehensive needs assessment.

HEW, on commenting on our recommendation to eliminate those formula allocation factors in the legislation which may result in unequal opportunities available to the handicapped, suggested that modifications of the State allocation formula under the Rehabilitation Act of 1973 should be deferred until the findings of a Rehabilitation Services Administration study on this formula are available. We believe that the study data will be useful to the Congress in considering our recommendation.

CHAPTER 5

IMPROVED EVALUATION NEEDED FOR MORE EFFECTIVE PROGRAM MANAGEMENT

Evaluation systems of the Federal, State, and local agencies responsible for administering federally supported education programs for the handicapped have not provided information essential for effective program management. Annual program effectiveness evaluations for some programs were not made, and individual project evaluations, if made, were of limited use because they were based primarily on opinions of program personnel. Although such opinions are useful, we believe that they should be used in conjunction with data obtained through objective means.

Because program managers lacked program and project evaluations, they were not in a position to determine whether (1) programs and projects for the handicapped were effective in meeting objectives or were in need of redirection, and (2) congressional intent had been met.

NEED FOR PROGRAM EVALUATIONS

OE guidelines state that evaluation of educational programs has become one of the most critical concerns in education and that nowhere is the dilemma greater than in special education. According to the guidelines, evaluation ideally should provide data needed to form a course of action, showing where to place children, how to distribute resources in priority order, and whether programs are helping reach goals.

The guidelines state that project results should be evaluated to determine whether they are favorable enough to (1) warrant continuing a new approach, (2) acquaint other schools with results, and (3) serve as feedback for gaining greater effectiveness from a similar effort. Thus, the evaluation report should provide a clear statement of what happened (when, where to whom, and with what effect).

At a 1972 symposium on Federal and State vocational rehabilitation programs, participants concluded that program evaluations were essential for the following purposes:

--Locating gaps in service.

--Determining program needs.

--Establishing goals and objectives.

--Isolating success and failure factors in programs and determining the need for changing and improving the makeup of programs.

--Assessing and evaluating the agencies' current operations and determining if goals are being achieved.

--Determining quality of agency performance.

INADEQUATE EVALUATION AND MONITORING SYSTEMS

The monitoring and evaluation systems were too limited to provide program management with data necessary to measure program success. Weaknesses such as the following precluded effective evaluation:

--State agencies were required to make program and project evaluations but often they were not submitted to the Federal agencies responsible for administering them. As a result, feedback to the agencies was limited.

--Rather than providing information on quality or degree of success, data collected on programs and projects centered on statistics, such as numbers of children receiving educational services and dollars spent. Little information on program results was provided.

--Program descriptions provided by States justifying Federal funds did not adequately describe the programs undertaken.

Evaluations of State and local projects

State and local agency evaluations of Federal projects were often inadequate for reasons such as the following:

--Evaluations did not address the project objectives and therefore did not show whether the project met the objectives.

- --Evaluations were primarily based on teachers' subjective observations rather than objective measures.
- --Project objectives were stated in input (resources) terms, rather than output (results) terms. Objectives were not stated in terms of the types of changes sought in the students and the degree of change expected as a result of each major activity.
- --Data accumulated did not provide a suitable base for evaluation.
- --State officials were not reviewing local project reports.

Project evaluations often were not submitted to the Federal agencies and, those that were, were not carefully studied. Federal agency officials told us that this occurs because of the lack of adequate staff to monitor State grant programs. For example, the Bureau of Education for the Handicapped has less than one specialist per HEW region for administering such programs. One local project director told us that no comments had ever been received from Bureau officials on any of the evaluations prepared by the project director's staff.

Evaluation of training grant projects

The Education of the Handicapped Act authorizes training grants to universities and other institutions. A Bureau official told us that limited staffing had allowed site visits to only 16 out of about 475 ongoing projects in fiscal year 1973. Before fiscal year 1973 most of these grantees were required only to submit final financial reports which did not include program evaluation data. Starting in fiscal year 1973 the Bureau required institutions to submit final project reports that contain evaluation data.

At the time of our review, no decision had been made whether the final project reports would be used for aggregating data for overall program evaluation. Bureau officials told us that the Bureau funded a special multiyear project in fiscal year 1972 designed to develop evaluation procedures for training grants.

Consultants' evaluations

Some efforts have been made to evaluate the Federal programs for the handicapped through the use of consultants. These studies were one-time efforts rather than a continuous system to monitor progress of the Federal programs.

EFFECT ON PROGRAM MANAGEMENT

Because evaluations of special programs and projects for the handicapped have not been adequate, we believe that program managers lack essential data on which to base management decisions and therefore cannot

--detect ineffective programs and projects,

--redirect existing programs or plan for more effective programs, or

--synopsize and disseminate the results of effective programs and projects to benefit other educators and administrators.

During our visits to the States we observed the following examples of programs and projects needing evaluation of results for decisionmaking:

--A State official said the small grants awarded by the State for development of innovative programs for handicapped children appeared to be just as effective as larger grants it had awarded; however, the State had not evaluated any of its grants for effectiveness. Accordingly, State officials could not make informed decisions for program revision or replacement or disseminate information on program effectiveness.

--One State-operated school had been receiving Federal assistance for 10 years. The school received about $100,000 in Federal funds for the 1972-73 school year but had an average pupil enrollment of about 20. Despite the long history of Federal support and a cost-per-pupil factor much greater than other State institutions, the effectiveness of this school's program had not been determined.

--In another State, Federal vocational education funds were used for an upholstery training project to prepare handicapped individuals for placement in the labor market. Project officials told us that the furniture-manufacturing plant in the community had gone out of business and that they did not know if jobs existed in the community for individuals with upholstery skills. Also the severity of most participants' handicaps generally precluded self-employment. We believe that evaluations in terms of placement success would have shown the need for modification of this project.

--Vocational rehabilitation programs did not provide for continuing followup to evaluate the long-range effectiveness of programs. As a result, decreases in the economic status of rehabilitated persons may go undetected and needed additional services may not be provided. Our report on "Effectiveness of Vocational Rehabilitation in Helping the Handicapped" stated that, in 700 cases randomly selected and reviewed, 15 percent of the handicapped persons were in need of additional rehabilitation. Only half of the rehabilitated handicapped sustained an increase in income and the percentage of handicapped persons on welfare did not decrease.

Determinations as to proper courses of action and the extent to which programs have successfully met the education and career training needs of the handicapped can be determined only through careful evaluation of data concerning the results of project activities. The Bureau of Education for the Handicapped has reported periodically that hundreds of thousands of handicapped children have been served under the State grant programs. However, a 1974 OE-financed study showed that the terms "served" and "unserved" were ambiguous because there was no information available about the appropriateness, quality, continuity, adequacy, or comprehensiveness of the service provided. A 1973 HEW-financed study indicated that detailed data on effectiveness was generally not available at the State level for special education programs.

The above studies concluded that poor, incomplete, or nonexistent data has largely contributed to low quality planning and evaluation and has hampered management improvements. One study stated that limited data restricted the review process of the study.

ADEQUATE GUIDANCE NEEDED FOR EVALUATING AND MONITORING PROGRAMS

Generally, Federal agency guidelines do not describe suitable procedures for State and local agencies to evaluate the Federal programs. The Federal agencies also do not use procedures designed to followup and insure that the State and local agencies monitor and evaluate their programs as required.

Most Federal agency guidelines do not require that State and local agencies submit qualitative data. State and local officials said that, because of the lack of guidance, they did not know what was expected in evaluation reports. One State official said evaluations could not be made without access to adequate data but that State policy prohibited the collection of data from local districts other than that specified by Federal requirements.

Although Federal guidelines require that objectives be stated in measurable terms, they often were not because of unavailable or inadequate achievement standards or criteria. State and local officials and teachers told us that they did not know what should be considered success or failure when teaching handicapped individuals. As a result, project objectives were often vaguely stated and not expressed in quantifiable terms. One project's objectives were stated in such unspecific terms as

--development of oral communication,

--growth in social development,

--stimulation of intellectual development, and

--development of a positive self-concept.

The project application contained no criteria indicating to what extent the objectives would be achieved through project activities.

Some applications contained objectives that reflected inputs into the educational process rather than the desired outputs. Project objectives were expressed in such terms as

--to provide needed individual attention through small class size and specially trained teachers, and

--to provide the necessary special methods and materials that these children need.

Several State agencies we visited had no systematic followup procedures to determine (1) if prior years' programs and projects continued after Federal funding was terminated and (2) the long-range effect of the project methods used and the need for further services. Monitoring local project activities generally was left to the discretion of each State agency. Several State educational agency officials said that staff shortages limited their ability to effectively monitor local project activities.

A Bureau of Education for the Handicapped official told us that the Bureau cannot hold the States accountable for program results because they do not have the staff to adequately evaluate the thousands of projects. He said the Bureau's efforts to strengthen the technical ability of local and State evaluators has not solved this problem.

CONCLUSIONS

Evaluation of federally assisted special education, vocational education, and vocational rehabilitation programs has not been adequate to provide State and Federal program managers with an appropriate base for (1) insuring that funds have been effectively used, (2) making management decisions on program conduct, or (3) determining whether legislative requirements have been met. The Federal agencies have not developed systems for accumulating data essential to the evaluation process thereby hampering the conduct of needed evaluations by responsible agencies or consultants.

Evaluation and monitoring have, in many cases, been left to State and other agencies without adequate guidance and followup procedures to help insure that suitable evaluations are made.

RECOMMENDATIONS TO THE SECRETARY OF HEW

The Secretary should:

- --Establish effective program and project monitoring and evaluation systems wherein program results are measured against predetermined objectives.
- --Provide guidance to State and local agencies on the methods of evaluating special education programs, including the establishment of objectives and goals, the collection of appropriate data, measurements and comparisons, and the assessment of results against expected outcomes.
- --Insure that suitable evaluations of federally funded projects are made by State and other agencies by establishing appropriate followup and monitoring procedures.
- --Establish procedures to redirect programs, when appropriate, on the basis of effectiveness evaluations.

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HEW agreed with the intent of our recommendations, but made the following statements about them:

- --There are extreme difficulties in predetermining measurable objectives in many social programs including those discussed in this report. Although reasonably effective program and project monitoring evaluation systems already exist (in those special education programs which are directly federally funded), major efforts are needed, and are underway, to establish more usable and useful measurement techniques.
- --A similar situation exists with respect to the thousands of projects which are approved and administered by the States. Guidance to State and local agencies on the methods of evaluating special education programs would be helpful and to the extent practicable will be provided. Under currently approved staffing patterns, for example, the Bureau of Education for the Handicapped will be adding professional

personnel as "State plan officials", with at least one such official per HEW region to assist in this effort. Even now, the Bureau has been conducting regional planning and evaluation workshops for State officials with positive effects upon State behaviors in these areas.

--Although redirection of directly federally funded education programs for the handicapped now occurs, the development of the States' evaluation capacity should increase their ability to redirect program effects.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20201

AUG 15 1974

Mr. Gregory J. Ahart
Director, Manpower and
Welfare Division
U.S. General Accounting Office
Washington, D.C. 20548

Dear Mr. Ahart:

The Secretary has asked that I respond to your request for our comments on your draft report to the Congress entitled, "Observations on Federal Programs for Education of the Handicapped". Our comments are enclosed.

We appreciate the opportunity to comment on this draft report before its publication.

Sincerely yours,

John D. Young
Assistant Secretary, Comptroller

Enclosure

COMMENTS OF THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE ON THE COMPTROLLER GENERAL'S REPORT TO THE CONGRESS ENTITLED, "OBSERVATIONS ON FEDERAL PROGRAMS FOR EDUCATION OF THE HANDICAPPED"

GAO RECOMMENDATION

The Secretary of HEW should implement procedures for systematic planning among the organizations responsible for the education and training of the handicapped. A comprehensive plan for educating and training the handicapped should be developed and the responsibility for carrying out each element of the plan should be clearly defined.

To facilitate the planning process, HEW should provide for a uniform and systematic means for collecting data about the handicapped including (1) numbers of handicapped by type, location, and severity, (2) types of services provided, and (3) results of the programs.

DEPARTMENT COMMENT

We concur. In fact, a new Office for the Handicapped has been created within the Department to deal more effectively with the special needs of the Nation's handicapped citizens. Its creation was authorized by the Rehabilitation Act of 1973. This office will:

-- prepare a long-range projection for the provision of comprehensive services to the handicapped;

-- continually analyze the operations of programs and evaluate their effectiveness;

-- encourage coordination and cooperative planning among programs serving the handicapped;

-- develop ways to promote the utilization of research; and

-- provide for a central clearinghouse for information and resources available to handicapped people.

More specifically, with reference to planning, data collection and evaluation; the Office for the Handicapped will develop a plan by March 1975 which will address the problem of uniform collection of data. Data collection efforts are being conducted by the Bureau of Education for the Handicapped, the National Center for Educational Statistics, and the Assistant Secretary for Planning and Evaluation.

At the State level the Rehabilitation Act of 1973 specifically requires State vocational rehabilitation agencies to plan and conduct studies on the needs of the States's disabled; and establish an order or priority for the provision of services emphasizing the highest priority in serving the severely disabled. States are required to conduct annually an evaluation of their program based on general standards as prescribed by the Department. Great emphasis throughout the new Act is on evaluation of services and program effectiveness. Regulations and standards are now being developed by the Department for use by States to plan and evaluate their programs.

Currently much of the data required is being obtained by State VR agencies on individuals eligible for services. This data includes age, disability, services provided, costs, highest grade of schooling attained, source of referral, rehabilitation outcomes in placement, and so on.

GAO RECOMMENDATION

The Secretary of HEW should

-- develop a system for assisting the States to identify and establish priorities for the educational needs of the handicapped.

DEPARTMENT COMMENT

We agree that a more formalized system would be more effective, and have established a working group composed of staff members of various concerned components within the Department, the National Center for Educational Statistics and selected States for this purpose. In this connection, however, we must reiterate a point touched on by the report -- by law, Federal agencies cannot require States to target Federal funds -- they may spend the funds according to their preference with only general guidance from Federal agencies as to where they should be targeted.

GAO RECOMMENDATION

The Secretary of HEW should

-- require that State applications for grant funds specify how the funds will be used in meeting the identified needs.

DEPARTMENT COMMENT

This information is already required in a report that a State must submit each year. Nevertheless, we agree with GAO that the quality of this information could be improved, and we are now considering specifically how this can be done within the limitations of the legislation discussed above. We would like to point out that in this annual report (Projected Activities Form) States now indicate their priorities and specify broad goals and strategies to be followed. Specific projects which are cited for funding are also included. They are viewed as examples of these directions, rather than rigid intentions. But, as mentioned above, we are looking into this to see what improvements are possible.

GAO RECOMMENDATION

The Secretary of HEW should

-- identify the areas of greatest need in such areas as research and demonstration, and teacher training to maximize the impact of Federal discretionary funds.

DEPARTMENT COMMENT

We concur. Identification of areas of greatest need in research and in demonstration, and teacher training are ongoing. Our operational plan for research planning includes a contract for national conferences with the resultant updating of priority areas. Our Bureau of Education for the Handicapped has convened meetings in one-third of the States earlier this year. The remaining two-thirds will be covered by next Spring. These will result in the formulation of intra-State plans for special education personnel representatives from (i) State departments of special education; (ii) colleges and universities; (iii) boards of higher education; (iv) State legislators; and (v) parent groups. Inter-State efforts will also be coordinated by the Bureau of Education for the Handicapped to assure an overall national program.

GAO RECOMMENDATION

The Secretary of HEW should

-- identify the projects which have provided the best catalytic effect and direct funds into these areas.

DEPARTMENT COMMENT

We concur. The Bureau of Education for the Handicapped has been doing this informally on a project-by-project basis. Nevertheless, we agree that the process should be formalized. With additional staff recently added, the Bureau will be able to provide increased technical assistance to the State to assist them in their discretionary responsibility to distribute these funds. We would like to point out that while States have appropriately used Federal funds on a continuing multi-year basis to support programs according to State priorities, they have also deliberately adopted a "catalytic" strategy -- in many instances at the Bureau's urging. It might be added that "catalytic" used in the sense of this program is much broader in scope than might first be gathered. In the final analysis, considering such achievements as the increased enrollments of children in special education classes; the addition of thousands of more specialized teachers, newer and stronger State legislation; these funds have been well spent.

GAO RECOMMENDATION

The Secretary of HEW should

-- establish effective program and project monitoring and evaluation systems wherein the results of programs are measured against predetermined program objectives,

-- provide guidance to State and local agencies on the methods of evaluating special education programs, including the establishment of objectives and goals, the collection of appropriate data, measurements and comparisions, and the assessment of results against expected outcomes,

-- assure that evaluations are made by establishing appropriate follow-up and monitoring procedures, and

-- establish procedures to redirect programs, where appropriate, on the basis of effectiveness evaluations.

DEPARTMENT COMMENT

While we agree with the intent of the recommendations, their implementation will be far more difficult than the draft report suggests. There are extreme difficulties in predetermining measurable objectives in many social programs including these. While reasonably effective program and project monitoring evaluation systems already exist -- in those special education programs which are directly, Federally-funded (i.e. discretionary) -- major efforts are needed, and are underway, to establish more usable and useful measurement techniques.

A somewhat similar situation exists with respect to the many thousands of projects which are approved and administered by the States. We concur that guidance of the nature suggested would be helpful; and to the extent practical we will provide it. Under currently approved staffing patterns, for example, the Bureau of Education for the Handicapped will be adding professional personnel as "State Plan Officials"; with at least one such official per region to assist in this effort. Even now, this office has been conducting regional planning and evaluation workshops for State officials with positive effects upon State behaviors in these areas. But, here again, it must be stressed that it is primarily the responsibility of the States to monitor and evaluate these programs.

[See GAO note 1]

Redirection of directly, Federally-funded education for the handicapped programs now occurs. The development of the evaluation capacity in States should lead to increased capability in redirecting their own programmatic effects of the basis of effectiveness. Federal programs through administrative and technical assistance practices aims for this end.
[See GAO note 2]

GAO notes: 1. Deleted comments pertain to matters which were presented in the draft report but have been revised in this final report.

2. The material on the remaining pages was deleted because it related to general matters which were considered or incorporated into the final report.

APPENDIX II

PRINCIPAL OFFICIALS OF THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE RESPONSIBLE FOR ACTIVITIES DISCUSSED IN THIS REPORT

	Tenure of office	
	From	To
SECRETARY OF HEALTH, EDUCATION, AND WELFARE:		
Caspar W. Weinberger	Feb. 1973	Present
Frank C. Carlucci (acting)	Jan. 1973	Feb. 1973
Elliot L. Richardson	June 1970	Jan. 1973
ASSISTANT SECRETARY FOR EDUCATION:		
Virginia Y. Trotter	June 1974	Present
Charles B. Saunders, Jr. (acting)	Nov. 1973	June 1974
Sidney P. Marland, Jr.	Nov. 1972	Nov. 1973
COMMISSIONER OF EDUCATION:		
Terrell H. Bell	June 1974	Present
John R. Ottina	Aug. 1973	June 1974
John R. Ottina (acting)	Nov. 1972	Aug. 1973
Sidney P. Marland, Jr.	Dec. 1970	Nov. 1972
Terrell H. Bell (acting)	June 1970	Dec. 1970
ADMINISTRATOR, SOCIAL AND REHABILITATION SERVICE:		
James S. Dwight, Jr.	June 1973	Present
Francis D. DeGeorge (acting)	May 1973	June 1973
Philip J. Rutledge (acting)	Feb. 1973	May 1973
John D. Twiname	Mar. 1970	Feb. 1973
COMMISSIONER, REHABILITATION SERVICES ADMINISTRATION:		
James R. Burress (acting)	Jan. 1974	Present
Corbett Reedy (acting)	Jan. 1973	Jan. 1974
Edward Newman	Oct. 1969	Jan. 1973

BALTIMORE CITY PUBLIC SCHOOLS
THREE EAST TWENTY-FIFTH STREET
BALTIMORE, MARYLAND 21218

OFFICE OF THE SUPERINTENDENT

April 10, 1975

The Honorable J. Glenn Beall, Jr.
U.S. Senate
362 Old Senate Office Building
Washington, D.C. 20510

Dear Senator Beall:

The proposed extensions of the "Mathias Amendment" currently under consideration by the Senate Sub-Committee on the Handicapped (S 1264 and S 1256) are of great concern to us.

On the behalf of the children of Baltimore who would benefit from services potentially available under a continuation of the Mathias Formula, we wish to enter into the Sub-Committee record our strong support for an extension.

Both the impact of certain changes in Maryland State law and of the implications of certain court decisions regarding provision of educational services to handicapped children are certain to result in greatly increased levels of expenditure for such services. This is particularly true in large urban school districts such as Baltimore City, where there are generally found disproportionately large numbers of handicapped children. We firmly believe that the federal government must increase its share of the cost of educating such children.

Finally, we believe that the Mathias Formula is a good one, but that its positive impact is weakened through the small appropriation in relation to the sum authorized for funding the intent of the amendment. The current appropriation falls far below the level of need.

We wish, also, to take this opportunity to express thanks to you and Senator C. Mc. Mathias for your continuing efforts to further the advancement of education.

Sincerely yours,

Roland N. Patterson

Roland N. Patterson
Superintendent

RNP:bmk

cc: Honorable C. Mc. Mathias
Mr. J. Ray Hamilton
Mr. John Betz
Mr. Quentin R. Lawson

STATEMENT
# of the
American Occupational Therapy Association
Submitted to the
Senate Subcommittee on the Handicapped

The American Occupational Therapy Association commends the Senate Subcommittee on the Handicapped and the sponsors of S.6, S.1256 and S.1264 for their commitment to high quality educational services for all handicapped children. We should like to submit for the record the following official statement by our organization on our special concerns in the field of education for the handicapped:

The American Occupational Therapy Association represents a health profession dedicated to the concept that every individual is entitled to maximum opportunities to develop and utilize his/her abilities and that every effort should be made to minimize the disabling effects that illness, injury, mistakes of nature or environment have on the individual's ability to achieve a productive and satisfying life.

The AOTA strongly supports the philosophy of providing and ensuring non-discriminatory educational opportunities for all children with handicaps and/or handicapping conditions. Provision of such educational opportunities require a change from the traditional definition of education as it relates to academic achievement to a broader concept concerned with total human functioning.

Cognitive development does not proceed from a vacuum: it is based on early sensory-motor learning. The occupational therapist is concerned less with specific education of the child than with preparing the child for learning and sustaining that learning readiness in the educational setting. The occupational therapist guides the child in posutral reactions and the postural mastery of physical control essential for writing and other skills. Concern is for gaps or lags in the total development of the child and the focus is primarily on the child's approximation of normal development in all spheres. The purpose is not to teach the basic cognitive skills but to provide sensory-motor experiences that the disabled child is not likely to achieve spontaneously. Through the study of physiological sciences and abnormal conditions in all systems of the body, the occupational therapist is able to distinguish neuro-physiological limitations from those which might be environmentally imposed. Evaluations of the child's strengths and limitations provide information for the special educator and others involved with helping the child maximize his/her potential. The role of the occupational therapist is to prepare the child to function independently in those areas in which mastery is possible and to provide adaptations for independent functioning as they are demonstrated to be essential.

As a health profession organization whose practitioners provide prevention and health maintenance services, as well as remediation and rehabilitation, the AOTA is especially concerned with:

1) The need for early screening and evaluation of pre-school children to identify developmental lags, deficits and/or behaviors which may interfere with the child's ability to learn and function in

the school experience. If children with "special needs", as well as those with the more obvious physical and mental handicaps, can be identified and intervention begun before school age, much can be done to facilitate preparation and readiness for school and reduce the "labelling" process which can produce such destructive results for the "labelled" child.

2) The inadequate provision for qualified non-teaching professionals to provide the necessary evaluation and remedial programming resources. While classroom teachers may be familiar with the concepts and principles of education for the handicapped, they cannot be expected to work unassisted toward identification and remediation of specific deficits, nor can they effectively use classroom time to do this. It is not realistic to expect the teacher to be knowledgeable and expert in recognizing, diagnosing, and remediating all problems which may exert tremendous influence on the child's ability to utilize or capitalize on educational opportunities and experiences. Such expectations are unfair to the teacher, especially when such problems have as their source a primary neurological, sensory, motor or developmental base.

3) Recognition of the difficulties inherent in integrating children with special needs into an already established culture and system, and the need to appreciate that peer- and self-acceptance evolves from an understanding and respect for differences.

4) The limited understanding and support from some school administrators which deprives teachers of the consultation and resources which would enable them to better deal with the special child in the regular classroom. This situation is frequently compounded by shcol boards' and parent groups' lack of recognition that they should provide consulting and direct care resources to teachers and children, particularly when those resources are not seen as directly affecting teaching/learning activities. Too frequently, such resources are view~~s~~ed as extraneous and are the first services to be eliminated when budgets are cut.

5) Architectural barriers in school buildings which preclude adequate and non-discriminatory integration of the child with a handicap or handicapping condition into regular classrooms.

6) The need for a sensitive balance of shared and separate learning experiences determined on the basis of the varied and changing needs, abilities and limitations of the child.

In view of these concerns, the AOTA strongly encourages those agencies and organizations concerned with education for the handicapped to consider the following actions as crucial in realizing the goal of a viable, integrated education for all children:

1) continue to promote the concept of integrated educational experiences for all children but with realistic expectations of classroom teachers and their responsibilities to all children;

2) assist administrators, school boards, and parent groups to understand the necessity of providing resources to teachers so that children with special needs can profit from an integrated educational experience;

3) recognize and support of the use of resources (consultants, non-teaching professionals, such as occupational therapists);

4) provide special adaptation of the physical environment and develop and provide assistive devices for the child to maximize functioning in the classroom and in the school setting;

5) promote and support model programs, which can be replicated, to help teachers and non-teaching health care professions work effectively together;

6) develop educational materials and programs for children, parents, teachers and administrators to help them stress the similarities and understand the differences among all children in order to reduce potential discrimination;

7) challenge the prevailing concept that consultants and/or non-teaching health professionals must be teacher-certified to work within the public school system, particularly in that their responsibilities are to help special children acquire and retain readiness for learning; and

8) publicize programs now in existence which are providing assistance to public school teachers.

In conclusion, we should like to recognize the substantial progress made by the 93rd Congress in the adoption of P.L. 93-380, including the Mathias amendment. We fully support your continuing efforts to improve and extend educational services for the handicapped.

4/75

Senator **Williams**. Because of competing demands around here, members had to leave. I know Senator Randolph will have some written questions, and maybe others might. We will leave that open.

[Whereupon, at 12:55 p.m. the hearing was concluded.]

[Appendix follows:]

APPENDIX

TEAR SHEETS FROM THE NEW JERSEY REGISTER

JUNE, 1975

(a)

EDUCATION

STATE BOARD OF EDUCATION

Proposed Revisions for Special Education

The State Board of Education, pursuant to authority of N.J.S.A. 18A:46-1 et seq., proposes to revise portions of its rules concerning special education.

Full text of the proposed revisions follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

6:28-1.9 **Parental notification**

(a) **The identification, evaluation and classification procedures shall include provisions to inform fully and involve the parent or guardian.**

1. **Identification: The parent or guardian shall be notified in writing in the dominant language of the home when a child has been referred to a basic child study team for evaluation.**
2. **Evaluation: The public school district shall request that the parent or guardian provide information to the basic child study team to be utilized in the classification process.**
3. **Classification: The chairperson of the basic child study team or his/her designee shall inform the parent or guardian of the classification, educational plan and educational program at a conference and in writing prior to their implementation.**
4. **The parent or guardian shall be informed of the right to appeal classification and program placement, and the procedures to follow in the appeal process by the chairperson of the basic child study team or his/her designee.**

6:28-1.10 Parents' and pupils' rights

(a) All identified pupils shall be provided an evaluation by the basic child study team to determine if they are handicapped and in need of special education programs as a prerequisite to any board of education action on exclusion from the public school.

(b) Parents of school-age pupils shall be provided copies of the law and the regulations relating to the handicapped by the local school district and shall be fully informed of the procedures to seek redress for any issue arising under said law or regulations by which they feel aggrieved.

(c) Parents shall be an integral part of the evaluation procedure and shall be notified of the findings of the examination at a conference scheduled for such purpose. A summary of the findings, the minutes of the conference and the agreed upon recommendations shall be available to the parent in writing in the dominant language of the home and made available to appropriate State agencies upon request.

(d) Parents, guardians or parent surrogates have the right to challenge classification, placement recommendations and the quality and nature of the program provided their handicapped child.

(e) Parents have the right to challenge any aspect of the procedures and decisions made by the school district relating to their handicapped child when in their judgment the decisions are not in conformity with statute or regulations or are not in their child's best interests.

6:28-1.11 Appeal procedures

(a) All parental concerns and issues relating to identification, classification, placement and program procedures should be discussed initially with the basic child study team, other professional staff and the administrator of the local school district.

(b) A parent, guardian or parent surrogate wishing to continue to challenge an issue pertaining to his/her child following discussion set forth in this Section should address the concern and/or grievance to the board of education of the local school district responsible for the original ruling.

(c) If the issues remain unresolved within the local school district, the office of the county superintendent shall be available for consultation with parents and guardians.

(d) The Branch of Special Education and Pupil Personnel Services, State Department of Education, shall act as an appeal agent if the local and county staffs are unsuccessful in resolving the issue. Said branch shall provide without cost to the parent all necessary professional evaluation services to help further clarify the issues to settle the dispute.

(e) The parent may elect to bring the issue to the immediate attention of the Commissioner of Education by filing a formal request for administrative review with the Department's Division of Controversies and Disputes. A formal hearing will be arranged to review the issues and a formal decision by the Commissioner will be rendered.

(f) A Commissioner of Education decision may be appealed to the New Jersey State Board of Education.

(g) The New Jersey State Board of Education decision may be appealed to the appropriate court of jurisdiction.

(h) The parent may, on behalf of his child, choose any level of appeal within the administrative system in order to obtain adjudication of his grievance.

6:28-2.2**(b)**

Where the Division of Youth and Family Services, New Jersey Department of Institutions and Agencies, has participated in the identification process, pursuant to N.J.A.C. 6:28-1.8(b), and has made a request of the local board for evaluation and classification of a child, should the local board fail to provide for such examination within 30 days of the request, the Division may assume the classification responsibility, using its own child study team and performing this function according to the procedures herein established.

[(b)] **(c)** Examination and classification shall include the following:

(Note: The current text remains unchanged).

6:28-3.1 [Handicapped pupils] Educational programs

(a) Handicapped pupils shall be [assigned to] **afforded** educational programs according to how they can best achieve success in learning.

(b) [Whenever possible h] Handicapped pupils shall be grouped and/or participate with nonhandicapped children in activities that are part of their educational programs.

(c) The chief school administrator or his designee shall be responsible for the placement of handicapped pupils based on the recommendations of the basic child study team employed by the local board of education, or the findings of a clinic or child evaluation center whose services are purchased by the local board of education. Recommended placement involving residential consideration shall be made only after consultation and agreement of the parents or guardians of the child.

(d) All school districts shall provide a continuum of educational programs and services for handicapped children as deemed necessary by the basic child study team.

6:28-3.2 Educational program options

(a) All school districts shall provide a continuum of educational services including programs of instruction complementary to the regular classroom.

(b) Handicapped children shall be served in an educational program on any of the following bases, but priority shall be given to the program which offers the student the least restrictive environment:

1. Instruction at school which complements regular class program:

i. Supplementary instruction;

ii. Resource room and/or learning center.

2. A special class program in the district;

3. A special program in:

i. The public schools of another district;

ii. A county vocational and technical school;

iii. A county special services district;

iv. An educational services commission;

v. A jointure commission.

4. Public school programs in hospitals, convalescent homes or other private institutions provided by agreement between one or more school districts;

5. A State of New Jersey operated program;

6. Sheltered workshops in conjunction with other educational programs in the local district on a part-time or full-time basis. Such sheltered workshops shall be approved by the New Jersey Rehabilitation Commission and the Branch of Special Education and Pupil Personnel Services;

7. Sending children capable of benefiting from a day school instructional program to privately-operated day classes in New Jersey or an adjoining state or nearby state and within 400 miles of Trenton or, with the approval of the Commissioner to meet particular circumstances, at a greater distance from Trenton, the services of which are nonsectarian, whenever in the judgment of the board of education with the consent of the Commissioner it is impractical to provide services pursuant to paragraphs 1, 2, 3, 4, 5 and 6 of this Subsection:

8. Individual instruction at home or in school whenever in the judgment of the board of education with the consent of the Commissioner it is impractical to provide a suitable special education program for a child pursuant to paragraphs 1, 2, 3, 4, 5, 6 or 7 of this Subsection.

[6:28-3.2] **6:28-3.3** Teachers for handicapped children

Children classified as handicapped shall be the primary instructional responsibility of a teacher certified to teach pupils so disabled. Such teachers shall provide instruction designed to correct or compensate for the disability as well as work cooperatively with other teachers to whom the handicapped child may be assigned for portions of his/**her** educational program.

[6:28-3.3] **6:28-3.4** Placement

(a) The placement of handicapped pupils shall be the responsibility of the chief school administrator or his designated agent for the board of education and shall be based on the recommendations of the basic child study team employed by the local board of education. Recommended placement involving residential consideration shall be made only after consultation and agreement of the parents or guardian of the child.

[6:28-3.4 Operation of programs

(a) Handicapped children may be served in an appropriate educational program on any of the following bases, but not necessarily in the order named.:

1. Instruction at school supplementary to the other programs in the school, whenever in the judgment of the board of education with the consent of the Commissioner the handicapped pupil will thereby best be served. Teacher aides, under the supervision of a principal, teacher of the handicapped or other personnel, appropriately certified, may assist in instruction in special class or other special programs according to N.J.A.C. 6:11-4.7;

2. A special class or program in the district or operated by a county vocational school including a class or program in a hospital, convalescent home or other institution;

3. A special class or program in the public schools of another district, vocational schools in this State or an adjoining state;

4. Joint facilities including a class or classes in a hospital, convalescent home or other institution to be provided by agreement between one or more school districts;

5. A jointure commission program;

6. A State of New Jersey-operated program;

7. Sheltered workshops in conjunction with other educational programs in the local district. Such sheltered workshops shall be approved by the New Jersey Rehabilitation

Commission and the Bureau of Special Education and Pupil Personnel Services;

8. Sending children capable of benefiting from a day school instructional program to privately-operated nonprofit day classes in New Jersey or a nearby state within 400 miles of Trenton, the services of which are nonsectarian whenever in the judgment of the board of education with the consent of the Commissioner it is impracticable to provide services pursuant to subsections 1., 2., 3., 4., 5., 6. or 7., otherwise of this Section.

9. Individual instruction at home or in school whenever in the judgment of the board of education with the consent of the Commissioner it is impracticable to provide a suitable special education program for a child pursuant to subsections 1., 2., 3., 4., 5., 6., 7., or 8., otherwise of this Section]

Interested persons may present statements or arguments in writing relevant to the proposed action on or before June 25, 1975, to:

Ms. Lorraine Colavita
Administrative Practice Officer
State Department of Education
225 West State St.
Trenton, N.J. 08625

The State Board of Education upon its own motion or at the instance of any interested party, may thereafter adopt these revisions substantially as proposed without further notice.

Fred G. Burke
Commissioner of Education
Secretary, State Board of Education